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CURRENT TOPICS

Increase in Crime

THE rising trend in the total number of indictable offences known to the police is shown in "Criminal Statistics, England and Wales, 1960," published last week (Cmnd. 1437, H.M.S.O., 8s.). The greatest proportionate increases were in the groups of offences classified as receiving and violence against the person. The number of breaking and entering offences also was up but there was a slight drop in sexual offences. An analysis of convictions shows a greater increase in crime among juveniles and young men and women last year than in 1959. Offenders under twenty-one sentenced to imprisonment for indictable and non-indictable offences increased from 2,698 in 1959 to 3,331 in 1960. No less than twenty-four free pardons were granted; anxiety about such a high figure may be in part allayed by the knowledge that eleven of those pardons followed the decision of *Kahn* v. *Newberry* [1959] 2 Q.B. 1, where it was held that a mobile shop was not a shop within the meaning of the Shops Act, 1950.

Motoring Offences

THE return of "Offences Relating to Motor Vehicles" (H. of C. Paper No. 247, H.M.S.O., 2s. 6d.), compiled by the Home Office from information supplied by police forces in England and Wales, shows that the number of offences and alleged offences there relating to motor vehicles which came to the notice of the police in 1960 was 1,058,434, representing a decrease of 12,199, or 1·1 per cent., compared with the total in 1959. Of these offences, 796,408 were dealt with by prosecution, 245,105 by way of written warning, and 16,921 by way of the fixed penalty procedure introduced by s. 1 of the Road Traffic and Roads Improvement Act, 1960. The number of convictions in magistrates' courts rose by 20,582 to 765,365, an increase of 2·8 per cent. There were increases of 15 per cent. in the number of convictions for dangerous driving, 16·8 per cent. for driving under the influence of drink or a drug and 16·8 per cent. for careless driving. Convictions for speed limit offences in built-up areas fell by 18,089 to 66,999, a decrease of 21·3 per cent. Two thousand nine hundred and three persons were sentenced to imprisonment by magistrates' courts in 1960 for motoring offences, compared with 2,089 in 1959. Disqualifications numbered 47,729 compared with 33,570. Prison sentences imposed by higher courts for motoring offences in 1960 amounted to 193, compared with 178 in 1959. The total amount of fines imposed by magistrates' courts in 1960 was £2,491,986, an increase of some £379,000 over the 1959 total. The number of cases dealt with by issuing written warnings was fewer by 53,525 (17·9 per cent.) than the number issued during the previous year.

CONTENTS

Games Near the Highway

ALTHOUGH the principles involved were already clearly established, the decision of ASHWORTH, J., in *Hilder* v. *Associated Portland Cement Manufacturers, Ltd.* (1961), *The Times*, 21st July, is of importance, especially to sports clubs, as it serves as a reminder of the risks inherent in the playing of ball games on land adjoining the highway. The defendants were owners and occupiers of a piece of open grassland separated from a busy highway by a low wall. Boys under ten years of age were allowed to play there: they frequently played football and from time to time footballs went on to the road. On one of these occasions a football caused a passing motor cyclist to fall from his machine and he died as a result of the injuries that he received. His widow brought an action for damages for negligence and Ashworth, J., said that he had to ask himself whether the defendants were shown to have failed to take reasonable care and "whether the risk of damage to a person on the road was so small that a reasonable man in the position of the [defendants], considering the matter from the point of view of safety, would have thought it right to refrain from taking steps to prevent the danger" (per Lord Reid in *Bolton* v. *Stone* [1951] A.C. 850). In the event his lordship was of the opinion that a reasonable man would have concluded that there was a risk of damage to persons using the road, as a result of the children's activities, and that it was not so small that it could be safely disregarded. Accordingly, he held that the defendants had failed to take reasonable care in all the circumstances, and that the widow's claim in negligence should succeed. The House of Lords reached the opposite conclusion in *Bolton* v. *Stone*, *supra*, because there was evidence that a cricket ball had been hit out of the ground only six times during the last thirty years, but in *Castle* v. *St. Augustine's Links, Ltd.* (1922), 38 T.L.R. 615, the plaintiff recovered damages in nuisance as it was shown that golf balls had frequently landed on or over the highway.

National Servicemen and Hire Purchase

UNDER the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, except with the leave of the appropriate court, no person is entitled to proceed to exercise certain remedies against a person who is for the time being performing a period of "relevant service." These remedies include "the taking of possession of any property" (ibid., s. 2 (2)) and "relevant service" includes whole-time service undertaken by virtue of an enlistment notice served under Pt. I of the National Service Act, 1948 (ibid., s. 64 (1), Sched. I, para. 5 (*a*)). It seems that these statutory provisions were applied in a recent case in the Manchester County Court. Before enlistment a national serviceman obtained a van under a hire-purchase agreement and the owners, a finance company, alleged that the vehicle was deteriorating rapidly because it was left for five or six months in an "open piggery." In view of this, the company's area manager took the van into "protective custody" and it was sold. His Honour Judge STEEL told the company that this behaviour would not be tolerated and he ordered the repayment of the sum of £169 which the national serviceman had paid under the agreement. Cases decided under s. 1 of the Courts (Emergency Powers) Act, 1943 (now repealed), suggest that the leave of the appropriate court cannot be dispensed with by either contract with or waiver by a national serviceman (*Bowmaker, Ltd.* v. *Tabor* [1941] 2 K.B. 1) and support the learned judge's decision that the national serviceman in question should recover an amount equivalent to what he had paid under the hire-purchase agreement (*Carr* v. *James Broderick & Co., Ltd.* [1942] 2 K.B. 275), although he could have awarded exemplary damages (s. 13 (2) of the 1951 Act). Of course, the protection afforded by the Act of 1951 is not confined to national servicemen; it extends, in effect, to all service personnel who are not volunteers on regular engagements (ibid., s. 64 (1), Sched. I).

Part-time Farm Workers

IN a recent case at Hereford, a farmer was fined for failing to pay a part-time employee wages at a rate not less than the minimum rate. It seems that the employee was employed full-time as a War Department policeman and had agreed with the farmer to work for three or four hours a day for which he would receive "certain benefits" instead of pay. The provisions of the Agricultural Wages Act, 1948, apply to "workers employed in agriculture" and "employment" means employment under a contract of service or apprenticeship, "employed" and "employer" being construed accordingly: ibid., s. 17 (1). It is the right to control, derived from agreement between the parties, that is the essence of the relationship of master and servant (see, e.g., *Mersey Docks and Harbour Board* v. *Coggins and Griffiths* (*Liverpool*), *Ltd.* [1947] A.C. 1) and there is no reason why this right to control should not exist in a part-time as well as in a full-time engagement. *Seabrook & Sons, Ltd.* v. *Jones* [1929] 1 K.B. 335, is authority for the proposition that "employment" does not mean actual working at every moment and, in so far as it allowed minimum rates to be fixed "for a day . . . or according to the number of working hours," s. 3 (3) of the 1948 Act appears to have envisaged that the provisions of that Act would apply both to part-time and full-time farm workers.

Remoteness of Damage

AN interesting point arose in *McCabe* v. *Russell and Others* [1961] N.Z.L.R. 385, a decision of the Supreme Court of New Zealand. With a view to clearing a small part of dry vegetation to enable the area to be ploughed, one of the defendants lit a fire on her property, but it spread to and burnt an area of some 20,000 acres. The plaintiff was one of a number of volunteers who, at the request of the "general body of neighbours," attempted to beat out the fire but, when the fire had passed from the defendants' land on to neighbouring properties, he was trapped in the flames and badly burnt. The court found that the defendants had been negligent and the question arose as to whether the plaintiff, who had volunteered his services without any express or implied request by the defendants, was entitled to recover damages. HENRY, J., held that he was as "the act of the plaintiff was the kind of act which the defendants might reasonably have anticipated as likely to follow the negligence which I have found." In the words of the leading case of *Hadley* v. *Baxendale* (1854), 9 Exch. 341, the plaintiff's injuries were "the natural and probable result" of the defendants' breach of duty and there had been no break in the chain of causation. Although Henry, J., denied that the case before him was a "rescue case" because there had been no sudden emergency or acceptance of any unreasonable risk or the undertaking of an unduly dangerous task, there is obviously a close similarity between this decision and those in cases such as *Haynes* v. *Harwood* [1935] 1 K.B. 146 and *Ward* v. *T. E. Hopkins & Son, Ltd.* [1959] 3 All E.R. 225.

THE RESTRICTION OF OFFENSIVE WEAPONS ACT, 1961

THE decision of the Divisional Court of the Queen's Bench Division in *Fisher* v. *Bell* [1960] 3 W.L.R. 919, revealed a significant defect in the wording of s. 1 (1) of the Restriction of Offensive Weapons Act, 1959, and the court rightly refused to supply the omission. While it is a proper function of the courts to interpret statutory provisions, they will refuse to fill in the gaps left by the Legislature because to supply such omissions would be " a naked usurpation of the legislative function under the thin disguise of interpretation " (per Lord Simonds in *Magor and St. Mellons Rural District Council* v. *Newport Corporation* [1952] A.C. 189). In other words, if Parliament omits to deal with a particular situation, it is for Parliament and for Parliament alone to put the matter right.

Section 1 (1) of the 1959 Act provided that :—

> " Any person who manufactures, sells or hires or offers for sale or hire, or lends or gives to any other person—(*a*) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a ' flick knife ' or ' flick gun ' . . . shall be guilty of an offence."

In *Fisher* v. *Bell*, *supra*, it appeared that the defendant, a retail shopkeeper, had displayed in the window of the shop, amongst other articles, a flick knife behind which was a ticket upon which the words " Ejector knife—4s." were printed. The prosecutor maintained that the defendant by his actions in displaying the knife in the window with the ticket behind it and referring to it had on the day in question offered the knife for sale within the meaning of s. 1 (1) of the Act of 1959. For the defendant it was argued that on the facts he at no time had offered the knife for sale within the meaning of the Act.

Exposure for sale

The court was referred to *Keating* v. *Horwood* (1926), 28 Cox C.C. 198, where the appellant, an inspector of weights and measures, saw the respondents, who were bakers, delivering bread from a motor car and he found, on weighing the bread that was left in the car, that the loaves fell short of the nominal weight of an even number of pounds. The appellant summoned the respondents (1) for offering for sale otherwise than by weight, and (2) for exposing for sale bread not of a weight of an even number of pounds, contrary to the Sale of Food Order, 1921, and the Divisional Court held that as the bread was put in the car for the purpose of delivery, there was an exposure for sale both of the bread expected to be required by the regular customers and of the margin. However, Lord Hewart, C.J., said :

> " The question is whether on the facts there were (1) an offering, and (2) an exposure, for sale. In my opinion there were both . . . The margin no less than the rest is offered and exposed for sale."

In *Fisher* v. *Bell*, *supra*, the court refused to accept the words of Lord Hewart, C.J., as authority for the proposition that the display of the flick knife in the shop window was an offer for sale. Lord Parker, C.J., explained that in *Keating* v. *Horwood*, *supra*, there had on any view been an exposing for sale and it followed that the question as to whether there had been an offer for sale was unnecessary for the decision. Further, the respondent had not been represented, no argument had taken place and no reference had been made to the general principles of the law of contract. It is also worthy of note that Shearman, J., said :

> " I am quite clear that this bread was exposed for sale, but have had some doubt whether it can be said to have been offered for sale until a particular loaf was tendered to a particular customer. It is, however, unnecessary to decide that."

General law applied

As there was no binding authority directly in point, the Divisional Court interpreted the provisions of s. 1 (1) of the 1959 Act in the light of the general law of the country. It is, of course, firmly established that the display of an article with a price on it in a shop window is merely an invitation to treat and not an offer for sale the acceptance of which constitutes a contract. The point was finally settled by the Court of Appeal in the well-known case of *Pharmaceutical Society of Great Britain* v. *Boots Cash Chemists* (*Southern*), *Ltd.* [1953] 1 Q.B. 401, where Somervell, L.J., agreed :

> " that in the case of an ordinary shop, although goods are displayed and it is intended that customers should go and choose what they want, the contract is not completed until the customer having indicated the articles which he needs, the shopkeeper, or someone on his behalf, accepts that offer."

In view of this, with some reluctance, the Divisional Court was driven to the conclusion that the shopkeeper had not committed an offence as the display of the flick knife in the window did not constitute an offer for sale within the meaning of the statute.

To many laymen, this decision must have seemed to be absurd, but it was undoubtedly correct. As was stated at the beginning of this article, it is for the courts to interpret statutory provisions and it is not their place to supply omissions. However, Parliament has not been slow to rectify the position and s. 1 of the Restriction of Offensive Weapons Act, 1961, provides that in s. 1 (1) of the Act of 1959 after the words " offers for sale or hire " there shall be inserted the words " or exposes or has in his possession for the purpose of sale or hire." The Act of 1961 came into operation on 18th June last and as from that date the display of flick knives in circumstances such as those which arose in *Fisher* v. *Bell*, *supra*, would be an offence. This is not the only occasion on which Parliament has omitted to enlarge the expression " offer for sale " to include exposure of goods for sale (see, e.g., *Mella* v. *Monahan* (1961), *The Times*, 21st January), but, in relation to offensive weapons, the omission has now been made good.

Application to Northern Ireland

The Act of 1961 has made another amendment to the law as it stood after the passing of the 1959 Act. Section 1 (2) of the Act of 1959 prohibited the importation of offensive weapons such as flick knives but the provisions of that Act did not extend to Northern Ireland (ibid., s. 2 (3)). Under s. 2 of the 1961 Act, s. 1 (2) of the Act of 1959 is extended to Northern Ireland so that, as from 18th June, the importation into Northern Ireland of those offensive weapons specified in s. 1 (1) of the 1959 Act has been prohibited.

D.G.C.

CO-ORDINATING ASSISTANCE

A new government department, to be known as the Department of Technical Co-operation, was formed on 24th July, the headquarters of which are at Carlton House Terrace, London, S.W.1. It is hoped that the creation of this new department will enable this country to meet more effectively any requests for technical assistance from the governments of developing countries.

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ASPECTS OF CHANCERY PRACTICE AND PROCEDURE—V

WARDS OF COURT

WARDSHIP cases sometimes arise as matters of extreme urgency. Fortunately, since the coming into operation of the Law Reform (Miscellaneous Provisions) Act, 1949, the mechanics for making a child a ward of court have been very simple. That does not mean, however, that the cases themselves present no difficulties. Where, for instance, there are disputes between the father and the mother of the child, the child (whose welfare is the object of the proceedings) may be in danger of being used as a pawn in the parents' squabble. Or where a child who is nearing twenty-one is asserting independence and proposing to do something of which the parents strongly disapprove, careful handling and considerable tact may have to be used if any lasting benefit is to follow from the proceedings.

Section 9 (1) of the Act provides that subject to the provisions of that section, "no infant shall be made a ward of court except by virtue of an order to that effect made by the court." Subsection (2) goes on to provide that where application is made for such an order, the infant does in fact become a ward upon the making of the application. It is difficult, in these circumstances, to envisage any case where an infant does actually become a ward of court (for the first time) solely by virtue of an order of the court. What happens is that the infant becomes a ward by virtue of the application and then there is an order confirming the wardship—or, to quote the words that are normally used, directing that the infant "do remain a ward of this court during minority or until further order."

Making of application

The application is made either by originating summons asking that the child be made a ward; or, if there is already on foot an action to which the child is a party, a summons is taken out in those proceedings asking that the child be made a ward. The originating summons, or summons, may thus create a misapprehension, since it is asking that the infant (who is already a ward by reason of the application) "be made" a ward.

Fear of ward going abroad

If there is a fear that a ward may be taken abroad without the leave of the court, it may be appropriate to get from the Chief Master's secretary a form of notice signed by a master or registrar for delivery to the appropriate department of the Home Office to enable immigration officers to take steps to prevent the departure of the ward.

With the object of counteracting the misapprehension that may arise from the use of the words "be made," it has now been arranged that, when, forthwith after its issue, the originating summons is produced at the office of the Chief Master for recording in the register of wards (as required by R.S.C., Ord. 54P, r. 2), the Chief Master's secretary will give the applicant's solicitors for service on the respondent at the same time as the service of the originating summons a memorandum to notify the respondent of the existence of the wardship. This is doubtless satisfactory in cases where the respondent is the person who is interfering, or threatening to interfere, with the infant, but, as is indicated hereafter, there are, e.g., cases where the respondent is a parent who is "on the same side" as the applicant and the notification is otiose in those circumstances. If any one interferes with the court's supervision of a ward, that would constitute some sort of contempt even if the fact of the wardship is unknown. If the solicitors for an applicant notified (by letter or in some reliable way) a person who was not a party to the proceedings that an infant was a ward and that person nevertheless tried to marry the ward or to take the ward out of the jurisdiction without the leave of the court, that would be a grave contempt. Not infrequently, ex parte injunctions are obtained immediately after the issue of the originating summons to prevent marriage with the ward or the taking of the ward out of the jurisdiction, and this of course strongly underlines and emphasises these restrictions which are implicit in wardship. Ex parte injunctions are also sometimes obtained to restrain association with a person who is thought to be an undesirable companion for the ward. Ex parte injunctions are normally granted for a short period—e.g., till the next motion day. It is expected that a notice of motion returnable on that day will be served on relevant persons and that the motion will be fully heard on that occasion when the injunction may be continued, or some other protective order made.

The wardship that arises by reason of the application is, however, limited by the rules (Ord. 54P). Unless within twenty-one days after the issue of the originating summons or summons an appointment to hear the application is obtained in chambers, the infant ceases to be a ward, but if such an appointment is obtained within that period, the infant "shall continue to be a ward of court until the determination of the application." At the hearing of the application there may be adjournments without an order being made, and it is thus conceivable (though unlikely) that, notwithstanding s. 9 (1) of the Act, an infant might remain a ward during minority without there ever being "an order to that effect."

When the appointment is obtained, the hearing may be fixed for a date after the expiry of the twenty-one days. But if the wardship is to continue as provided by the rule referred to above (Ord. 54P, r. 3), there must be attendance at the master's chambers before the twenty-one days have passed to obtain the appointment (and the appointment must be obtained). It is especially necessary to remember this requirement in cases where, soon after the issue of the originating summons, there has been an ex parte (or *inter partes*) application to the court for an order to safeguard the ward. That order may appear to protect the ward for the time being and it may therefore seem that there is nothing further that need be done for the moment; but if the appointment to hear the originating summons is not obtained within the twenty-one-day period, or if the court does not, when it makes the interim or interlocutory order, treat the originating summons as before the court and expressly provide that the wardship is to continue, the wardship may quite unintentionally terminate.

Ex parte form not appropriate

The originating summons is in the "not *inter partes*" form (App. K, No. 1B). It should be noted that the ex parte form is not regarded as appropriate in these cases. It may not be easy to decide who should be the respondent. The infant should not be made a respondent to the originating summons unless the master or the judge so directs—*Re an Infant* [1950] Ch. 629. If the parents are separated, it is not uncommon

for the applicant parent to make the other parent the respondent. Sometimes, even where the parents are really co-operating in the application, one parent elects to be the applicant and the other the respondent because there is no other person who should obviously be joined as the respondent. When the originating summons comes before the master or the judge, he may give directions as to who should be parties. He may at that stage direct that the infant (if the infant is of suitable age) be joined. The amendment is normally made by fiat.

Infant's welfare paramount

In wardship proceedings it is the welfare of the infant that is of paramount importance. This is a feature which should be remembered. Care and control of the ward are not necessarily entrusted to the "innocent" parent. The evidence that is filed should therefore relate to the infant's welfare. Evidence of marital squabbles may thus have only a comparatively slight relevance Wardship proceedings are not intended to provide a forum for ventilating marital grievances or a sort of dress rehearsal where divorce proceedings are pending.

Applications in wardship matters are normally dealt with in chambers or *in camera*. But publicity may be useful in some circumstances. If, for instance, a ward has disappeared, Press publicity may enable the ward to be traced or convey to the ward and other persons the information that the infant is a ward and that a protective order has been made. The court's direction, however, should always be sought before there is any disclosure to the newspapers.

The orders that are made where the wardship is to continue vary according to the circumstances. Sometimes they are very detailed, providing for care and control, schooling, access during term-time and holidays, and so on. Sometimes the order provides for the continuation of the wardship and decides who is to have care and control, and leaves the rest of the matters to be decided by agreement between the parties or, in default of agreement, by the master.

Cesser of wardship

At one time once a person became a ward he or she remained a ward during minority. Section 9 (3) of the Act now makes it possible for the court, either upon an application in that behalf or without such an application, to order that the wardship shall cease.

If the proceedings are solely under the Law Reform (Miscellaneous Provisions) Act, 1949, the court will not make an order or other provision for the payment of maintenance unless the party who is to pay consents and submits. Where the father is to be asked to pay maintenance, the proceedings should be intituled in the matter of the Guardianship of Infants Acts, 1886 and 1925, as well as in the matter of the 1949 Act. Where all these Acts are intituled, there is a minor problem: an infant must not (without leave) be made a respondent in proceedings under the 1949 Act, but in Guardianship of Infants Act proceedings, Ord. 55A, r. 3, requires the summons to be "taken out by the infant (by a next friend) or by any other person interested in the relief" and to "be served on the infant (if not the applicant) . . ." There has been no clear judicial direction as to what should be done in these circumstances, but it seems preferable at the moment to treat the application as a wardship application and not to make the infant a party. The infant can be added as a party later if the court thinks that should be done.

In the first place, the evidence in wardship cases is affidavit evidence. The practice is to embody the information in statements which are exhibited to the affidavit. The statements are retained by the master in chambers. If the information is embodied in the affidavit itself, the court is likely to require the affidavit to be taken off the file and resworn. The infant should not normally swear an affidavit. In a recent case where an affidavit of a ward of about twelve was put in, the Court of Appeal directed that it should be taken off the file. The judge can always see the ward if he considers that that course is advisable.

(To be concluded) H.

County Court Letter

THE CAN-CARRIER

COUNTY court registrars, as everybody doubtless knows, tend to be retiring people, seeking and getting little publicity. You can picture them (or perhaps you cannot), immured in their chambers from 9.30 till 5.30 each day, toiling and moiling unremittingly through a mountain of taxations, applications, and infant settlements, and only occasionally emerging to subdue the roarings of the judge or struggle with a widow over whether she ought to have £5 out of her fund or not. From time to time, of course, they will stumble into the dim light of their own courts, where they will dispense justice surrounded, nay, swamped, by a sea of debtors far too small to throw to the judge. Not even the reporters from the local press will be there—registrar's courts are seldom news, except when they are dealing with public examinations in bankruptcy, when every reporter within miles will be available to record the discomfiture of the debtors.

Occasionally, however, something happens to drag a registrar from obscurity and throw him into the limelight of a court other than his own. This is generally in his official can-carrying capacity, and recently there have been two cases of this nature of passing interest. The first, *Chung Kwok Hotel Co. and Another* v. *Field*, p. 465, *ante*, seems to be a classic instance of the muddle that things can get into if you are not careful.

Everything went wrong

This was a possession action in which an order was made in favour of a predecessor in title to the landlords, who acquired their interest after judgment. On an application by the defendants to vacate the judgment, the judge directed an issue to be tried under C.C.R. Ord. 25, r. 6 (*inter alia*) whether the present landlords were entitled to issue a possession warrant. He held that they were, but on appeal, the Court of Appeal decided that the benefit of the order for possession had not been assigned to the present landlords, and consequently they could not enforce it. For some rather obscure reason the registrar, or more probably someone on his staff, drew up an order substituting the present landlords for their predecessor in title as plaintiffs in the action. In addition, the order of the Court of Appeal was incorrectly drawn up, and provided only for costs.

One might have thought that these proceedings had got into such a state that anyone would be glad to be out of them. Nevertheless, the original landlord successfully applied under C.C.R. Ord. 15, r. 1, to be added as plaintiff. The defendant appealed on the grounds that a party could not be added after final judgment.

The Court of Appeal said, in effect, that the question did not arise. The county court judge had never substituted the new landlords as plaintiffs and in any case the reversal of his decision by the Court of Appeal would have had the effect of leaving the original landlord as plaintiff, had this order been properly drawn up. There had been a series of mistakes and the position should be rectified under the slip rule, Ord. 15, r. 12: which had the effect of bringing the whole matter back to precisely where it was in the first place, though presumably somebody was considerably lighter in pocket.

The bailiff and the shovel

The second case, not reported at present, was *Pilling* v. *Tele Construction Co., Ltd. and the Registrar of Bow County Court*, and concerns the question of what, if any, enquiries a registrar should make before selling goods seized on execution if he is to have the protection provided by the County Courts Act, 1959, s. 133. In this case execution was levied on the premises of the first named defendant company, who were construction engineers. Among the goods seized was a mechanical shovel in a poor state of repair. It appears that the bailiff had difficulty in finding any officer of the company, but a letter specifically mentioning the shovel came into the hands of the secretary prior to the date of the sale. Pursuing a policy of masterly inactivity, he did nothing until the morning of the sale, when he went to the premises where it was being held with enough cash to pay out the execution. Unfortunately, by the time he arrived the shovel had been sold for £9.

It was at that stage that it first became known to anyone other than the defendant company's secretary that the shovel was not its property, but belonged to Pilling. Unsuccessful attempts were made to buy it back, and ultimately this action was started. It was claimed by the plaintiff that the registrar should have made enquiries as to the ownership of the shovel, by for instance finding out in whose name it was registered, though in fact it apparently had not been registered for some years.

The reasonable registrar

The judge held that in the circumstances of this case it was reasonable to infer that all the goods seized belonged to the company, since they were of a nature likely to be used by a company in that type of business. There was therefore no obligation on the registrar to make any enquiry and he was protected by s. 133. The plaintiff's claim against the company succeeded.

The point that remains a mystery is—what happened next? Did the plaintiff immediately ask the registrar to levy execution on the defendant company's premises all over again? And if so, what enquiries, if any, did he make this time? Alas, we shall probably never know.

We have noticed before that execution has its dangers for judgment creditors. This case shows that it also has for judgment debtors and registrars. Thank Heavens for s. 133.

J. K. H.

Landlord and Tenant Notebook

RENT NOT "COMPLETELY DUE"

THE somewhat cryptic and prima facie unlawyer-like expression which I have put between quotation marks was used by Lord Macclesfield, L.C., in *Earl of Strafford* v. *Lady Wentworth* (1720), Prec. in Ch. 555, and has again been used in *Re Aspinall (deceased)*, *Aspinall* v. *Aspinall* [1961] 3 W.L.R. 235, p. 529, *ante*, by Buckley, J. In each case a landlord had died on a quarter day (Michaelmas in the older case, Christmas in the recent one) on which rent was payable but before it was paid, and the question before each court was whether the rent was payable to the deceased's estate.

For the purposes of this article, it is not necessary to set out all the facts of the recent case. It is sufficient to state that the deceased was the leasehold owner of a house let out in parts, most of the undertenants holding leases or agreements making annual rents payable on the usual quarter-days; that by his will he left the house in trust for his widow for life, and after her death to his son (by a former wife) absolutely; and that he died at about 8.30 a.m. on 25th December, 1954. The son took out a summons to determine whether the rents were to be regarded as capital or as income, making the executor and trustee first defendant and the widow second defendant.

"Due and payable"

It was argued for the plaintiff that as the law pays no attention to a fraction of a day the deceased must be taken to have lived until midnight 25th–26th December. In support of this argument, *Lester* v. *Garland* (1808), 15 Ves. 248, was relied upon: for the purpose of computing six months from a testator's death, the day of the death was excluded; but Buckley, J., held that there was no general rule that fractions of a day are to be ignored and, indeed, the cases later referred to on the right to rent itself showed that the rule would not apply to such.

Fraudulent removal

Of these, *Dibble* v. *Bowater* (1853), 2 E. & B. 564, came closest to supporting the plaintiff's case. This was a decision under the Distress for Rent Act, 1737, s. 1, entitling landlords in England, the dominion of Wales and the town of Berwick-upon-Tweed to seize and sell goods or chattels fraudulently or clandestinely conveyed away or carried off or from the demised premises by their tenants to prevent the landlords from distraining the goods, etc., for rent reserved due or made payable. (There is a limit of thirty days during which the landlord may act; and the section replaced the Landlord and Tenant Act, 1709, s. 2, under which the limit was five days). It was held in *Rand* v. *Vaughan* (1835), 1 Bing. N.C. 767, that removal, whether fraudulent or clandestine or not, before rent became due did not entitle the landlord to act under the statute; in that case the tenant had carried out the operation on a 24th March, i.e., just before the Ladyday quarter-day. But in *Dibble* v. *Bowater* the tenant

removed goods on the morning of the Christmas quarter-day—and was held to have left it too late: the rent was due and payable, though not in arrear. "In law, no distress could be made till the following day; but the rent was due at the beginning of 25th December, though the tenant had the whole of that day in which to pay it."

The test

Buckley, J.'s judgment is not very explicit when it comes to declining the assistance of *Dibble* v. *Bowater;* reference might, for instance, have been made to the heading of the Distress for Rent Act, 1737: "An Act for the more successful securing the payment of Rents, and preventing Frauds by Tenants." But the test the learned judge propounded shows that the reasoning used in *Dibble* v. *Bowater* could not be applied to the facts before the court. "It seems to me that the test which I have to use for the purpose of deciding whether or not these rents ought to be regarded as capital assets of the testator's estate is whether at the time of his death a cause of action to recover the rent had then accrued." And the learned judge then considered a number of cases in which life tenants had granted leases in the days before statute law authorised any such grants: in *Earl of Strafford* v. *Wentworth, supra,* for example, a case in which a life tenant without leasing powers had granted a lease and died at noon on a Michaelmas Day, Lord Macclesfield, L.C.'s exposition showed that though the lessee had "election to pay" the rent at any time before the last instant of the day, that election was taken away by the death; but that, if there had been power to make the grant, the term would continue after the death of the lessor, and his representatives would have no right to the rent.

"Satisfactory"

Going further afield and farther back, Buckley, J., referred to Sir Edward Coke's statement of the position in *William Clun's Case* (1613), 10 Co. Rep. 127*a*, giving us four possibilities:—payment before rent becomes due, or at some time on the day on which it becomes due, or at the last moment of that day, or after that day. Payment before the day is "voluntary and not satisfactory" (as some kind-hearted tenants who have responded to their financially embarrassed landlords' appeals have found to their cost). Payment on the morning of the day is "in a sense voluntary"; the tenant cannot be made to pay then, but, if he does, it is a good satisfaction. The rent becomes "finally" due at the last moment of the day, and if not paid then is in arrear.

Clun's case, incidentally, actually concerned a lease by which rent was made payable on the four usual feast-days or within thirteen weeks after. The practice of making such provision has been abandoned as inconvenient; but no one seems to have thought of making rent payable at a particular moment of a day.

R. B.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Description of Charities in Wills

Sir,—A number of enquiries are received by this Association from executors of wills, to assist in the interpretation of the wishes of a testator. The help of the Association is sought because of the resources of its Information Department on Charities as it is often found that the names of charities in a will do not correspond exactly with the names of any charities in existence. A certain amount of research is involved in these cases, and a good deal of work on the part of executors and others might be avoided if the attention of the testator is invited to the necessity of ensuring that the charities mentioned in a will, are accurately named.

JOHN S. BURT,
Director of the Family Welfare Association.

London, S.W.1.

Common Market Legal Problems

Sir,—With reference to the letter in your issue of 28th July (p. 652) from Mr. Christophers and your remarks, may I point out that neither of your suggested sources of reference are complete and that another good source of reference is Butterworth's Empire Law List which has a good European section.

A better solution still, however, is to ask The Law Society as they not only give the firms with offices in any given country but can also say whether there is a qualified solicitor in residence and some firms have already availed themselves of this facility.

"O TEMPORA! O MORES!"

"Within the Common Market."

"THE SOLICITORS' JOURNAL," 3rd AUGUST, 1861

THE Weekly Reporter was published in connection with THE SOLICITORS' JOURNAL which, on 3rd August, 1861, wrote: "We are not in the habit of making any boastful parade of the eulogies which, from time to time have fallen from the Bench, as to the character and value of the reports contained in the Weekly Reporter. So many expressions of approval, not only of the speed with which they are reported there, but also of their accuracy, have been heard both from the Bench and at the Bar, that these reports are now received with favour in all the common law and equity courts of this country and also of our various colonies . . . From the establishment of the Weekly Reporter, its aim has been to produce, not only speedy, but reliable reports and so to supersede on the one hand the dilatory and very expensive reports of the official reporters and on the other the almost equally slow and most unsatisfactory production of the legal journals—which were too frequently little else than uncorrected prints of the transcript of the shorthand writers' notes. The very large circulation and judicial sanction which our reports have received give the profession the best testimony of . . . our success; and the manner in which they are accepted by judges of the superior courts is the best authority that a country practitioner need desire in citing them before local tribunals."

PROFESSIONAL CLASSES AID COUNCIL

The annual report of the Professional Classes Aid Council was presented by the chairman, Lady Cynthia Colville, at the annual general meeting held on 19th July, 1961. Sir Adrian Boult, M.A., D.Mus., was elected president for the coming three years, on the retirement of Lord Moran, who has agreed to become a patron.

"The Solicitors' Journal"
Friday, August 4, 1961

OVER TO YOU

[The following typescript (unless we dreamed it) reached us through the post. Tired of being led from beginning to end of it and back again to the beginning, we leave to our readers the question whether or not to publish.]

TOGETHER WITH THE FAIRIES AT THE BOTTOM OF THE GARDEN

The vendor's solicitors' letter lies on the desk in front of me at this moment. Its contents, read alone, are not extraordinary, and there is therefore little point in mentioning them at this stage. I will go back to the beginning.

I was instructed by a friend in the purchase of a small cottage in Wales. A retreat, he called it, in a place rejoicing in the name of Ybswcwmpwllbrch (hereinafter called "Ybs"). I cannot find it on any map or in any gazetteer, and the only evidence I have that it exists is that my friend has been there (he says) and my local searches were replied to without comment. The solicitors write from somewhere else, equally unidentifiable and unpronounceable.

I am still not convinced, however. The first unsettling incident was the solicitors' opening letter. It was handwritten. Typewriters apparently have not penetrated into this part of the Welsh interior. I have not really recovered my balance since.

The writer, in a firm, round hand, promised me the draft contract in the course of a few days, and was as good as his word. Foolishly, I allowed myself to be surprised again upon seeing a handwritten draft.

Apart from this, there was nothing unusual about the draft until I reached the provision for the root of title. It was said to be a conveyance on sale of 17th October, 1829. We had a small laugh about this in the office, and, altering it to the 1929 it was obviously meant to be, I returned the draft.

The reply gently informed me that while they could accept my other amendments, they had to re-instate the year 1829 as the root of the title date. Dazed, I asked (by letter, they are not on the telephone) if there was not possibly a later root than this. They said, No, not a satisfactory one.

So, all other matters being in order, I sent them my client's part, and sat back to await an abstract of title handwritten, covering 132 years, weighing at least five or six pounds, and no doubt marked as having been examined against a copy of the Doomsday Book. I prayed that it might consist of general devises and suchlike at thirty to forty year intervals.

It was, of course, handwritten, but the envelope only required a threepenny stamp. Vexed at the carelessness that resulted in their only sending me the first part, I immediately wrote for the remainder. At the first opportunity, however, I examined what I had.

For a full ten minutes by the clock I stared bemused at the paper before me. It disclosed the root of title deed, and a general devise thirty-four years later. To my client's vendor.

It was a mistake, of course. It was to his ancestor of the same name.

Three days later I received a most courteous letter from the other side stating that I had already received all the abstract I was going to get, and they looked forward to having my requisitions.

A quick calculation made the vendor at least ninety-eight years old if he could hold a legal estate as an infant and 119 if he couldn't. I asked the telephone operator for my friend's number.

"Frank," I said when he answered, "this place you're buying in Wales. You did say you'd been there, didn't you?"

"Yes."

"Did you meet the vendor?"

"Yes. A dear old boy, about seventy."

"Frank, if you saw someone aged only seventy, according to the solicitors that would be your vendor's grandson."

"What do you mean, old boy?"

"It seems that you're buying this cottage from a lad of possibly 119 years of age."

"Don't be absurd."

I explained. Frank saw my point.

"What do you intend to do about it?" he asked.

"I don't know. For that matter, need I do anything?"

"Well, you're the lawyer. I leave it with you."

I was on the point of submitting some innocuous requisitions when it occurred to me that the whole thing was too absurd, and that I should pull myself together. I decided to ask for some evidence that the property was vested in the man Frank had seen. A moment's reflection showed, of course, that this was tantamount to asking for proof that the man Frank had seen was about 119 years old. I risked it.

"In view of the slightly unusual circumstances surrounding the age of the vendor, would you please supply evidence both of this age and of the fact that the person claiming to our client to be the vendor is in fact the person in whom the property appears to be vested."

That, I thought, would draw their fire.

The reply, as always, was courteous. It expressed no misgivings or gentle rebukes. They appreciated my point. They said the vendor was born in 1853 and offered in support a statutory declaration by one Idris Jones.

This was where I made my mistake. I said that I failed to see what Idris Jones could say that would be of much help.

The reply lies on the desk in front of me at this moment. It says that Idris Jones is prepared to declare that he has lived in Ybs for many years, and has in any event known the vendor all the vendor's life.

D.S.

HERE AND THERE

LIBEL BY PROPHECY

Now that the Long Vacation is here, and the lawyers, or anyhow those most closely connected with the loftier forms of litigation, are taking wing to strange strands and distant shrines, a stray recollection leads me to wonder what sort of weather there is at Biarritz, for on that may turn a rather interesting action which, earlier this year, the town council had resolved to start in the French courts. The Committee for the Co-ordination of Touring on the Basque Coast had also intimated its intention to sue. The cause of action, if upheld, would constitute a rather curious and startling extension of the law of defamation, for the intended defendant is a newspaper which published a forecast of bad weather for that area of France during part of the holiday season. The nearest one could get to such an action in England would, I suppose, be one of slander of goods, always on the assumption that the Brighton Corporation, say, could be described as owning the Brighton weather. But a further complication enters into the matter with the element of prophecy. Can a prophetic statement calculated to cause damage give rise to a cause of action accruing before the moment for the fulfilment of the prophecy has arrived? One would have thought that here the time for the issue of the writ could not have been earlier than the end of a sun-drenched but touristically desolate summer. But, even on that footing, a splendid new branch of the law of tort seems to be putting forth its first shoots before the delighted gaze of French lawyers. The weather diviners of the daily newspapers and the broadcasting services do not usually work at long range. If, then, a week-end forecast of storm in coastal areas in the south-west, snow on high ground and alternations of funny periods is falsified by the event, can the hoteliers and restaurateurs, so prejudiced, really recover damages for loss of business?

If Biarritz is indeed so hypersensitive to the things that are written about it, one is surprised that it never apparently thought of bringing an action against the advertisers who at one period were describing Aberystwyth as "The Biarritz of Wales." The implications of the equation were numerous and stimulating, for the inevitable corollary of the statement was that Biarritz was the Aberystwyth of France, a belief which, if fostered, might somewhat alter the nature of its attraction to foreign tourists. In the same spirit some of the things which French publicists are in the habit of stating about the English weather have a perilously actionable quality, if this suit of Biarritz against the newspaper succeeds. I have never forgotten an article I once read in a French magazine beginning: "It was in London where the rays of the sun, filtered by thick fogs, only rarely illumine the numerous streets of that populous city." International lawyers should watch that sort of thing in the light of the possibilities of a Common Market in causes of action.

PERCHANCE TO DREAM

THE tourist industry, appealing, as it does, to dreaming and escapism by hyperbole and exaggeration must surely sow in its promises the seeds of innumerable actions. A socially aspiring tourist lured to some literally lousy fonda in Spain by descriptions of luxurious living with impeccable service may well feel that he has suffered an actionable wrong, while a romantic tourist who has expressly stipulated for a place remote, retired, inaccessible, savage, devoid of all the demoralising influences of modern civilisation, may feel himself even more bitterly cheated and deluded in being fobbed off with some colourless, up-to-date, hygenic, tourist barracks with not one trace of the fleas that tease in the high Pyrenees nor the wine that tasted of the tar. An Eastbourne hotel keeper who had too lavishly fed the yearnings of his potential customers for the delights of yesteryear was nearly in trouble in the magistrates' court there. A brochure which he circulated contained a photograph of the bandstand taken (as was evident from the women's clothes) some time in the nineteen-thirties. The view from the hotel lounge displayed the pier as it was at least forty years ago. The municipal orchestra was described as playing daily in the Floral Hall, an echo of harmonies silenced by the war since when no municipal orchestra had been engaged. All this appeal to a sleep-walking nostalgia went with an elusive offence under the Registration of Business Names Act which cost the pedlar of evaporated charms a fine of £190. It was a lesson, and he need not despair for the future. Every tourist agency knows that even if the camera avoids lies it can get along very nicely with subtle touches of *suggestio falsi* and *suppressio veri*.

RICHARD ROE.

REVIEWS

An Introduction to the Law of Leases. By A. H. WHITFIELD, M.A. pp. 177 (with Index). 1961. London: The Estates Gazette, Ltd. £1 5s. net.

This book is intended primarily as a text-book for students for professional examinations in estate agency, surveying, etc., but it is hoped that it will also be of value to Bar students and those taking The Law Society's examinations. While more than half the volume consists of extracts from statutes, we believe that the hope referred to will be fulfilled. The succinct descriptions of the requirements of a lease and the effects of its various provisions, the accounts given of implied terms and of the law relating to alienation and to determination, and the statement of that relating to stamping and registration are likely to prove especially useful to a student who, struggling with standard works, feels that he is about to reach a not-see-the-wood-for-the-trees point.

There is, however, room for improvement. Statutory security of tenure can rightly be regarded as beyond the scope of an Introduction of this kind, but it is unfortunate that, when fleeting reference is made to its existence, no mention is made of that affecting agricultural tenancies, and nearly a page devoted to long tenancies protected by the Landlord and Tenant Act, 1954, does not tell us what tenancies come within the purview of Pt. I. Then, while the question which authorities to cite and which to omit must be a difficult and delicate one in the case of an Introduction, we suggest that such a decision as *Edwards* v. *Jones* (1921), 124 L.T. 740 (C.A.), might be usefully referred to in order to bring home to budding estate agents the importance of specifying a date for the commencement of a term. Again, when the extent of liability for repairs is being explained, we suggest that *Proudfoot* v. *Hart* (1890), 25 Q.B.D. 42 (C.A.), gives us the test better than does the more recent *Anstruther-Gough-Calthorpe* v. *McOscar* [1924] 1 K.B. 716 (C.A.); but that more is now to be learned about "fair wear and tear" from *Regis Property Co., Ltd.* v. *Dudley* [1959] A.C. 370, than from *Taylor* v. *Webb* [1937] 2 K.B. 283 (C.A.) (the authority of which was questioned in the later case). One last criticism: the precedent of a lease, which is a precedent of a lease of a dwelling-house, does not give the landlord a right to show prospective tenants over the premises when the term is drawing to an end: the importance of such a provision is, incidentally, more likely to be overlooked by lawyers than by estate agents.

Private International Law. Sixth Edition. By G. C. CHESHIRE, D.C.L., F.B.A., of Lincoln's Inn, Barrister-at-Law. pp. lv. and (with Index) 733. 1961. London: Clarendon Press; Oxford University Press. £3 10s. net.

Dr. Cheshire alludes with characteristic modesty in his preface to this new edition to the shortcomings he finds on re-reading his text during the process of revision. Let an ordinary devotee of the subject hasten to assure him—most readers will need no such guarantee—that any shortfall is one which could exist only in the eye of a perfectionist such as its author. A book does not attain its sixth edition in twenty-five years unless it consistently fulfils the demand which called it forth; nor could "Cheshire" have gained the place it holds among teachers, students and practitioners on anything less than solid merit.

The book has indeed grown up alongside the subject in its various modern developments, and has shown its author to be, like Nestor, a counsellor whose wisdom has achieved more than the exertions of those who had cause to consult him.

The growth of the book is not principally a matter of size. There are only forty more pages of text than in the fourth edition, which was the first to appear in the present format. If one cannot say, despite the availability of authority for what was once conjecture, that the author's propositions are presented with any marked increase in confidence, that is only because from the first it was a supremely confident work. It is refreshing not only to read again the familiar broadsides against *Machado* v. *Fontes* and *Shaw* v. *Gould*, but also to observe the same trenchant style of attack employed in commenting on more modern cases in which the courts have busied themselves with individual trees, to the neglect of the increasing number of guides to the wood. Valuable as are such passages in fostering a sound approach to matters of principle and logical thinking habits in the student, the practitioner must not forget that the *Taczanowska* decision, for instance ([1957] P. 301), carries the authority of the Court of Appeal, however startling its result may appear to the theoretician. Of course, Dr. Cheshire says nothing to deny this fact. Yet his method of exposition at times has the effect of masking the practical consequence of judicial arbitrament behind his own uncorrupted disappointment at a turn of events. So long as the practising lawyer remembers to make any necessary compensating adjustment in this respect, the stimulation to be derived from the author's closely reasoned criticisms can be nothing but healthy.

The task of incorporating a good deal of new material into the pattern of the text has been resourcefully handled. Statutes such as the Legitimacy Act, 1959, have limned more clearly the features of the subject and so have had their part in producing a richer portrait. A trace of the revising process which has remained uncovered is on p. 437, where the particular Legitimacy Act referred to finds itself without a date; there was only one such Act before this revision.

A peculiar feature of the recent development of the subject is that the new material, if one's impression is valid, seems to be more in the realm of family law than in that of commerce. It may be that Common Market problems will to some extent shift the balance by the time of the next edition.

The book has always been one of the easiest textbooks to read and use, physically and as a matter of comprehension. The sidenotes signpost helpfully the development of the argument and, together with detailed chapter headings, serve to supplement what seems to be at some points, at least, rather a "one-way" index. The important discussion at pp. 440–441 of domicile and residence in connection with the jurisdiction of the English court to make adoption orders is not indexed under "Domicile," "Residence," "Infant," "*Lex domicilii*" or "Jurisdiction."

Back Duty Manual. Second Edition. By A. J. ROPER, B.Sc., Hons. pp. vii and (with Index) 173. 1961. London: Butterworth & Co. (Publishers), Ltd. £1 12s. 6d. net.

This extremely valuable little book, as its title indicates, deals with the position consequent upon unsuccessful tax evasion. Since this is a position happily unfamiliar to most practitioners, particularly so to the legal profession but also to accountants, there was the need for some substitute for experience. Mr. Roper, having left the enemy ranks, first satisfied this need in 1953 by using his experience as a member of the Inland Revenue Enquiry Branch as the basis of his manual. He thus provided a completely adequate guide, interestingly written as it happens, not only to the computation of omitted profits but also to the presentation of the case to and the negotiation of a settlement with the Revenue. The only imaginable method of achieving such a guide is to do so in a large part by way of examples, and this is what Mr. Roper has done, considering mainly the affairs of a Mr. *A. B. Sea*. The second edition of his manual was, it will be appreciated, rendered necessary by the penalty provisions of the Finance Act, 1960, following on the *Hinchy* case. To bring oneself nearer equal terms with the Revenue if and when faced with the conduct of a back duty case, the book should be acquired.

Kime's International Law Directory for 1961. Sixty-ninth year. Edited and compiled by PHILIP W. T. KIME, O.B.E. pp. xiv and (with Index) 651. 1961. Watford: Kime's International Law Directory, Ltd. 15s. net.

This reference book, published annually and now in its sixty-ninth year, contains lists of legal practitioners throughout the countries of the world, with telegraphic codes and addresses, and an appendix of legal information of use to lawyers dealing with oversea matters. Due to the emergence of new self-governing countries, many changes have taken place, and practitioners who have extensive dealings abroad will find this new edition a useful means by which to keep up to date.

NOTES OF CASES

*These notes are published by arrangement with the Council of Law Reporting. Except in respect of those marked *, full reports of the judgments, revised by the judges, will shortly appear in the Weekly Law Reports. A list of cases reported in today's issue of "W.L.R." is set out at the end of these notes.*

Case Editor: J. D. PENNINGTON, Esq., Barrister-at-Law

Court of Appeal

HUSBAND AND WIFE: DIVORCE: MAINTENANCE DEED: WHETHER "POST-NUPTIAL" SETTLEMENT

Young *v.* Young

Ormerod, Upjohn and Davies, L.JJ. 25th July, 1961

Appeal from Baker, J. ([1961] 1 W.L.R. 955; p. 551, *ante*).

In April, 1945, a wife was granted a decree nisi of divorce on the ground of the husband's adultery. On 29th May, 1945, the spouses executed a deed by which the husband covenanted to make periodical payments to the wife, for their joint lives, and for the two children of the marriage until they respectively attained the age of sixteen years, it being mutually agreed that such covenants should be in lieu of an application by the wife to the court for a maintenance order. In July, 1945, the decree nisi was made absolute. In 1956, the wife re-married, since when she had been domiciled and resident in the State of Victoria. The husband applied to the court under s. 25 of the Matrimonial Causes Act, 1950, for a variation of the deed executed on 29th May, 1945, on the basis that it constituted a post-nuptial settlement. The registrar dismissed the application. On appeal, Baker, J., held that the deed constituted a post-nuptial settlement. The wife appealed.

ORMEROD, L.J., said that the question whether the deed constituted a post-nuptial settlement depended upon the proper construction of the deed, without assistance from extraneous sources. It was common ground that the deed constituted a settlement. For it to be a post-nuptial settlement, there must be a nuptial element. There was no authority directly in point as to what was meant by a "nuptial element." When the deed was executed, the marriage had, to all intents and purposes, come to an end. A decree nisi of divorce had already been pronounced. The deed was not entered into on the footing that the marriage would continue, but on the footing that it would be dissolved. There was, therefore, no nuptial element. The settlement was not, therefore, a post-nuptial settlement, and the court had no power to vary it. The appeal should be allowed and the registrar's order restored.

UPJOHN and DAVIES, L.JJ., delivered concurring judgments. Appeal allowed. Leave to appeal on terms.

APPEARANCES: *Philip Goodenday* (*Alec Woolf & Turk*); *Edward Grayson* (*Ralph Freeman & Co.*).

[Reported by D. R. ELLISON, Esq., Barrister-at-Law]

APPEAL FROM COUNTY COURT: INADEQUATE MATERIAL BEFORE APPELLATE COURT: NEW TRIAL ORDERED

Sertin *v.* A. E. Smith Coggins, Ltd.

Lord Evershed, M.R., Harman and Donovan, L.JJ. 26th July, 1961

Appeal from Birkenhead County Court.

A stevedore suffered an injury while loading a 9-cwt. case into the hold of a cargo ship under the direction of a fellow employee, the hatch boss, when the case tilted and fell against his leg. During the operation, dunnage wood, used to level up the cargo in the hold during loading, had broken under the weight of the cargo being put down the hatch. The stevedore claimed damages from his employers for alleged negligence. The employers denied negligence and alternatively alleged contributory negligence by the plaintiff. The county court judge, three months after the hearing, delivered judgment, in which he found that the employers were negligent in that the dunnage was not strong enough for the hazardous operation, and that there had been no contributory negligence by the plaintiff. The employers appealed. The only note of the evidence before the Court of Appeal was a long full note taken by counsel and his instructing solicitors, which had been approved by the judge.

LORD EVERSHED, M.R., said that he had regretfully come to the conclusion that the court should order a retrial. Unhappily the judge's note of evidence seemed to have disappeared. The judgment was very short, and his lordship could not put out of his mind the feeling that, when it came to be delivered, the judge might not have had clearly in his mind what the issues had been. The real question appeared to have been whether the accident could be attributed to the loading not being properly directed by the hatch boss. The employers relied on the evidence of the plaintiff as showing that the accident was not attributable to the hazard of which the plaintiff complained. It was unfortunate that that particular issue had not been determined; nor did the judge appear to have traced the result to its alleged cause. On the material available, an appellate court, however free it might be to reach conclusions of fact, could not safely conclude what was the cause and effect in answer to the question, what was the danger, if any. There must be a new trial, before a different judge, not through any lack of faith in the impartiality of the judge in question but in the interests of justice.

HARMAN, L.J., concurring, said that the unsatisfactory nature of the material before the court was clearly shown by the fact that his lordship was not sure that he agreed with Lord Evershed's review of the facts, and still less as to what was the effective cause of the trouble. In that position the court could neither reject nor accept the result at which the judge arrived.

DONOVAN, L.J., also concurring, said that the judgment did not show to what act of negligence on the employers' part the accident was attributable. Appeal allowed. New trial ordered.

APPEARANCES: *Andrew Rankin* (*Hill, Dickinson & Co.*); *H. L. Lachs* (*Ernest B. Kendall & Rigby*, Liverpool).

[Reported by Miss M. M. HILL, Barrister-at-Law]

FACTORY: DANGEROUS MACHINERY: WHETHER DUTY TO FENCE AGAINST TOOL

Sparrow *v.* Fairey Aviation Co., Ltd.

Sellers, Devlin and Danckwerts, L.JJ. 27th July, 1961

Appeal from Streatfeild, J.

The plaintiff's hand was injured when, while he was working at a turret lathe, the tool with which he was working, a scraper, came into contact with the jaws holding the component that was being processed in the chuck, and caused his hand to be flung against either the component or the face of the chuck. The component, the jaws and the face of the chuck were all revolving at 500 revolutions a minute. The plaintiff sued his employers, contending that the jaws were a dangerous part of the machine which ought to have been fenced or guarded; his hand, however, did not come into contact with them but with either the face of the chuck or the component. Streatfeild, J., held that the jaws of the

chuck were a dangerous part of the machine, but that the component operated as a fence in respect of the jaws so that the terms of s. 14 of the Factories Act, 1937, were satisfied. The plaintiff appealed.

DEVLIN, L.J., said he preferred to put the defendants' liability under the section on the ground that the employer did not owe an unlimited duty to the employee to protect him from all injury caused by or through contact between him and the machine. On the ground therefore that the defendants owed no duty under s. 14 to the plaintiff to prevent the tool which he was holding from coming into contact with the machine, he held that the action failed and that the appeal should be dismissed.

DANCKWERTS, L.J., delivered a concurring judgment.

SELLERS, L.J., dissenting, said that there was nothing in the section read as a whole which would exclude protection for an operator plus the tool with which he was working. The first sentence of s. 14 (1) was clearly wide enough to include a workman working with a tool, for it contemplated security to "every person employed or working on the premises"; he would hold that a breach of the section was established. Appeal dismissed.

APPEARANCES: *Peter Pain* (*W. H. Thompson*); *Desmond Ackner*, Q.C. (*Hextall, Erskine & Co.*).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law]

FACTORY: PLACE OF WORK: LADDER: SECURE FOOTHOLD AND HANDHOLD

Wigley *v.* British Vinegars, Ltd.

Ormerod, Upjohn and Davies, L.JJ. 28th July, 1961

Appeal from Atkinson, J.

On 29th October, 1958, an experienced window cleaner, in business on his own account, fell from a ladder supplied by the defendants while cleaning a window 30 feet from the ground in the fermentation house of the defendants' factory and was killed. The window, which was 3 feet 6 inches high and 3 feet wide, was in two sections. The left-hand side was fixed but the right-hand section pivoted on lugs and closed by its own weight, having no catch or fastening by which it could be fixed in the closed position. In order to clean it, it was necessary to hold the top in order to prevent the bottom from swinging under pressure. In an action for damages under the Fatal Accidents Acts and the Law Reform (Miscellaneous Provisions) Act, 1934, the widow claimed that the accident occurred through a breach by the defendants of s. 26 (2) of the Factories Act, 1937, in that the deceased was required to work at a place where he was liable to fall more than 10 feet and, although such place did not provide a secure foothold or handhold, they had failed to provide any reasonably practicable means for ensuring his safety. There was no complaint about the ladder which was of sound construction and did not slip or move. Atkinson, J., held that the defendants were in breach of their duty under s. 26 (2) in failing to supply a secure foothold and that that breach was the cause of the deceased's death. The defendants appealed.

DAVIES, L.J., delivering the judgment of the court, said that the deceased's place of work was the ladder and it was wrong to say that a good and solid ladder, properly positioned and securely placed, did not afford a secure foothold even when the particular window required the window cleaner to clean with one hand and support the window with the other. The ladder satisfied the criterion of security as laid down by du Parcq, J., in *Walker* v. *Bletchley Flettons, Ltd.* [1937] 1 All E.R. 170, 175. If any insecurity occurred it was due to the fact that the deceased, either in the way he placed the ladder or in the way he used it, abandoned the security it afforded. The upright of the ladder afforded a secure handhold. It was true that if the deceased was working with both hands he would have no hand free with which to hold the side of the ladder, but "handhold" in s. 26 (2) meant something which a man could hold on to or grab from time to time as and when he wished to do so. The ladder did afford a secure foothold and a secure handhold and the defendants were under no obligation to provide other means for ensuring the safety of the deceased. That conclusion made it strictly unnecessary to consider the other points argued but it had been said that if the place of work did not afford secure foothold and handhold the defendants were under a duty to provide other means, such as hook or bars at the window, to which the deceased could have attached a safety belt and so ensure his safety. Applying the test in *Bonnington Castings* v. *Wardlaw* [1956] A.C. 613, re-emphasised by Lord Evershed, M.R., in *Haynes* v. *Qualcast* (*Wolverhampton*), *Ltd.* [1958] 1 W.L.R. 225, the plaintiff had failed to prove that if the defendants had provided hooks or bars to which a safety belt could have been attached the deceased would have made use of it or them. It followed that on that point also the appellants would have been entitled to succeed.

APPEARANCES: *Patrick O'Connor*, Q.C., and *John Archer* (*Hewitt, Woollacott & Chown*); *Graham Swanwick*, Q.C., and *W. W. Stabb* (*Stephenson, Harwood and Tatham*).

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law]

RATES AND RATING: PARK OWNED BY CORPORATION: WHETHER EXEMPT

Blake (Valuation Officer) *v.* Hendon Corporation

Sellers, Devlin and Danckwerts, L.JJ.

28th July, 1961

Appeal from the Lands Tribunal.

Stonegrove Park, which was acquired by Hendon Corporation in 1932, acting under s. 164 of the Public Health Act, 1875, was officially opened to the public in 1934 and had ever since been used as a public park and recreation ground. The Lands Tribunal held that it should not be entered in the valuation list as exempt from payment of rates. The corporation appealed.

DEVLIN, L.J., delivering the reserved judgment of the court, said that if the corporation were merely custodians or trustees of the park for the benefit of the public, there was no beneficial occupation by them and occupation by the public was not rateable. If the corporation had the full ownership of the park, beneficial as well as legal, and the public were admitted not as beneficiaries, but as licensees, the park was in law occupied by the corporation who had to pay rates. The leading case on this was *Lambeth Overseers* v. *London County Council* (known as the *Brockwell Park* case) ([1897] A.C. 625) where a park was acquired by the L.C.C. under a special Act. On behalf of the valuation officer the court was asked to recognise a fundamental distinction between s. 164 of the Public Health Act, 1875, and the special Act in that case; in the latter the local authority had no alternative except to "dedicate" the land to the public; in the present they had a choice: they could dedicate the land to the public, making the public beneficial occupiers and reserving for themselves only the power of management and control, or they could retain the right to occupation, admitting the public as licensees, as in the case of a library or public gallery. The court saw no reason why the public should get anything less under s. 164 than under the special Act in the *Brockwell Park* case, and there was no true distinction between this case and *Brockwell Park*. Stonegrove Park should be held exempt. Appeal allowed.

APPEARANCES: *J. T. Molony*, Q.C., and *A. C. Munro Kerr* (*R. H. Williams*); *Sir Derek Walker-Smith*, Q.C., and *J. Raymond Phillips* (*Solicitor of Inland Revenue*).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law]

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Election Court

ELECTION: RIGHT OF MAYOR TO VOTE WHEN NOT PRESIDING

County Borough of Wolverhampton's Local Government Election Petition

Glyn-Jones and Thesiger, JJ. 28th July, 1961

Case stated.

At a county borough council's annual meeting *D*, an outgoing alderman, was elected and became mayor. The election of seven aldermen followed immediately and the mayor announced that, as a candidate in the election of aldermen, he was precluded from presiding, whereupon Alderman *M* was elected to preside and did so. The mayor left the chair and sat with the other aldermen. There were fourteen candidates. The mayor purported to vote for himself and six others. Twenty-three votes were cast for each of the fourteen candidates. On the footing that there was an equality of votes, *M* gave a casting vote for the seven candidates for whom the mayor had voted. The petitioners, two of the unsuccessful candidates, disputed the election alleging that, as the mayor could not and did not preside, he was not in law present and could not validly vote and that, therefore, there was a majority of votes for the persons not declared elected without any exercise of the casting vote. The successful candidates and *M* contended that the mayor was entitled to be present and vote notwithstanding that he did not preside and that, therefore, the mayor's vote was valid, *M* was entitled to give a casting vote, and the persons declared were duly elected.

GLYN-JONES, J., said that he thought that the provision in para. 3 of Pt. 2 of Sched. III to the Local Government Act, 1933, was mandatory, and that if the mayor was present he had to preside, but he was not sure that it was necessary to hold that that provision was mandatory and was inclined to think that one reached the same conclusion whether the provision was mandatory or directory. The office of mayor had its own peculiar characteristics, and was one whole and indivisible. Parliament's intention was that at a council meeting, the mayor's place, and his only place was in the chair, exercising all his mayoral functions, including the right to vote. When he was not in the chair, then as his rights were one and indivisible, he had lost his rights as far as taking part in that meeting was concerned. The mayor, unless presiding, was not present at the meeting in his mayoral capacity and therefore could not vote as mayor. Therefore, the vote he cast was not a valid vote and should not have been accepted. The petition succeeded.

THESIGER, J., delivered a concurring judgment. Declaration accordingly.

APPEARANCES: *C. E. Scholefield*, Q.C., and *D. G. Frank* (*Alfred Bright & Sons* for *Dunham, Brindley & Linn*, Wolverhampton); *Ian Threlfall* (*Sharpe, Pritchard & Co.* for *Town Clerk*, Wolverhampton); *David Widdicombe* (*Lees & Co.* for *Manby & Steward*, Wolverhampton).

[Reported by Miss C. J. ELLIS, Barrister-at-Law]

PARLIAMENT: HEREDITARY PEER: DISQUALIFICATION FROM HOUSE OF COMMONS BY STATUS ON SUCCESSION

***In re* Parliamentary Election for Bristol South East**

Gorman and McNair, JJ. 28th July, 1961

Election petition.

A Member of Parliament, *AB*, heir male to a peerage of the United Kingdom created by Letters Patent in 1942, sought on his father's death on 17th November, 1960, to renounce and surrender the peerage and petitioned the House of Commons to appoint a Select Committee to examine and report on his submission that, being a M.P. at his father's death, he was not by law required to accept any place in the House of Lords by virtue of which he would be disqualified from sitting in the Commons. He did not apply for nor did he receive a writ of summons to attend the House of Lords. The House of Commons by resolution accepted the findings of a Committee of Privileges so appointed, namely, that *AB* succeeded to the peerage on 17th November, 1960, and thereupon ceased to be a member of and was disqualified from membership of the Commons and that the purported surrender of the peerage was of no legal effect; and the House resolved that a new writ be made out to elect a member in the room of *AB*. *AB* and *SC* were nominated as candidates at the bye-election. Before the votes were cast notice was given to all electors entitled to vote that *AB* was a peer and that it was claimed that that status constituted disqualification from membership of the House of Commons, so that votes given for *AB* would be null and void. Notice was also given that *AB* denied the facts and the claim. *AB* was given a majority of 13,044 votes over *SC* and was returned as duly elected. *SC* and an elector thereupon petitioned the Election Court to determine that *AB* was not duly elected and that *SC* was duly elected and ought to have been returned as Member of Parliament for the constituency. *AB* opposed the petition.

THE ELECTION COURT said that it was settled law that a person succeeding under Letters Patent to a peerage could not surrender his peerage, a status which carried with it the right and duty to sit in the House of Lords. If, therefore, a peerage as a whole was inalienable it would be strange if a person could by his own act in refusing to apply for a writ of summons disembarrass himself of some of the attributes attaching to his status and have a free option to decide in which House of Parliament he desired to sit. On the main question of law, whether, if *AB* succeeded to the peerage on his father's death, he was disqualified from being a candidate for or sitting in the Commons, notwithstanding that he had not applied for nor received a writ of summons to attend the House of Lords, the court, on a review of the relevant common law of Parliament, was satisfied that the disqualification attached to the status of peer, the writ of summons being only one method of establishing the fact of succession; that in the absence of a writ of summons there was no bar to the court finding, as it did, on the facts before it and the Letters Patent that *AB* on his father's death did succeed to the peerage, was thereby disqualified, and was not duly elected. On the question whether *SC* was duly elected, the court, being satisfied on the evidence that the voters before casting their votes had notice of the fact that *AB* on his father's death was the eldest surviving son, and of the claim (disputed by *AB*) that that constituted disqualification from the Commons, was bound by authority to declare that the votes cast for *AB* were thrown away and that *SC* was duly elected as Member for the constituency. Declarations accordingly.

APPEARANCES: *Sir Andrew Clark*, Q.C., *Helenus Milmo*, Q.C., and *David Widdicombe* (*Lewis & Lewis and Gisborne*); the respondent (*Anthony Neil Wedgwood Benn, Viscount Stansgate*) in person; *Robin Dunn* (*Director of Public Prosecutions*).

[Reported by Miss M. M. HILL, Barrister-at-Law]

Restrictive Practices Court

RESTRICTIVE PRACTICE: RESTRICTION OF NEWSAGENCY PERMITS: WHETHER IN PUBLIC INTEREST

***In re* Newspaper Proprietors' Association's Agreement**

Diplock, J., Sir Stanford Cooper, Mr. W. L. Heywood and Mr. W. G. Campbell. 27th July, 1961

Reference.

The agreement between the Newspaper Proprietors' Association and the Federation of Retail Newsagents, Booksellers and Stationers provided that daily morning newspapers

should only be sold at or from places at which they were sold in June, 1944, or at places authorised by the proprietors. Permits for a new selling point were issued by a committee of the deputy circulation managers of the newspapers. The committee met once a fortnight and in most cases its decision followed automatically the recommendations of the newspapers' local representatives instructed to investigate an application. The respondents sought to justify the agreement under s. 21 (1) (*b*) of the Restrictive Trade Practices Act, 1956.

DIPLOCK, J., reading the reserved judgment of the court, said that the typical newsagent was a small shopkeeper, working long and particularly early hours, who combined the sale of newspapers with the sale of other goods such as tobacco and stationery: 70 per cent. of all newspapers were delivered to the residences of readers by school children, who were restricted to working between 7 a.m. and 8 a.m. by local byelaws: 30 per cent. were sold over the counter. The court was satisfied that the agreement had given the public a reasonable delivery and counter service, but the test under the Act of 1956 was whether its abrogation would deprive the public of any substantial benefit. The newsagents contended that if there was competition there would be such a vast influx of new entrants into the trade that newsagency would become so unprofitable as to force newsagents to cease the delivery of newspapers. On the evidence the court was unable to accept that gloomy prophecy. The proprietors contended that if the agreement was abrogated the retailers would replace it by some other form of control on entry into the trade that would be more detrimental to the public. That was impossible, because any such control would infringe the Act of 1956, and it was not to be expected that the Federation or its members would break the law. Accordingly, all the restrictions would be declared contrary to the public interest.

APPEARANCES: *Arthur Bagnall*, Q.C., and *Eric Griffith* (*Lewis & Lewis & Gisborne & Co.*); *Guy Aldous*, Q.C., *Douglas Falconer* and *William Aldous* (*Shaen, Roscoe & Co.*); *B. J. M. MacKenna*, Q.C., *John Donaldson*, Q.C., and *Christopher Staughton* (*Treasury Solicitor*).

[Reported by NORMAN PRIMOST, Esq., Barrister-at-Law]

THE WEEKLY LAW REPORTS

CASES INCLUDED IN TODAY'S ISSUE OF THE W.L.R.

	Vol.	*Page*
Brown *v.* Bullock (p. 63, *ante*)	1	1095
Daniels *v.* Jones (p. 568, *ante*)	1	1103
L. *v.* L. (p. 589, *ante*)	3	544
Littlewoods Mail Order Stores, Ltd. *v.* Inland Revenue Commissioners	3	509
Maloney *v.* A. Cameron, Ltd.	1	1089
Meek *v.* Fleming (p. 588, *ante*)	3	532
R. *v.* Cavendish	1	1083
R. *v.* McBride (p. 572, *ante*)	3	549

IN WESTMINSTER AND WHITEHALL

ROYAL ASSENT

The following Bills received the Royal Assent on 27th July:—

Army and Air Force.
British Transport Commission.
British Transport Commission (No. 2) Order Confirmation.
Companies (Floating Charges) (Scotland).
Covent Garden Market.
Credit-Sale Agreements (Scotland).
Crofters (Scotland).
Crown Estate.
Eyemouth Harbour Order Confirmation.
Human Tissue.
Land Drainage.
Middlesex County Council.
Mock Auctions.
North Atlantic Shipping.
Pier and Harbour Order (Exmouth) Confirmation.
Police Federation.
Rating and Valuation.
Rivers (Prevention of Pollution).
Shakespeare Birthplace, &c., Trust.
Teeside Railless Traction Board (Additional Route) Order Confirmation.
Trusts (Scotland).

HOUSE OF LORDS

A. PROGRESS OF BILLS

Read First Time:—

Glasgow Corporation Order Confirmation Bill [H.C.] [26th July.

Read Third Time:—

Great Ouse Water Bill [H.C.] [27th July.
Licensing Bill [H.C.] [26th July.
Port of London Bill [H.C.] [24th July.

In Committee:—

Housing Bill [H.C.] [24th July.

B. QUESTIONS

POST OFFICE RECORDED DELIVERY SERVICE

LORD ST. OSWALD said that in regard to the legal, etc., position of the Post Office recorded delivery service, since 9th March the Post Office had been in consultation with Government departments responsible for statutes and statutory instruments which at present specified use of the registered post for the service of documents and notices by post. There was general agreement that, save in a few exceptional cases, these should be amended to allow use of recorded delivery as an alternative. Departments had been asked to promote their own amendments to statutory instruments and some had already done so. A Bill would be required for the amendment of statutes and preparatory work was in progress. The Postmaster General hoped that it would be possible to find an opportunity for legislation in the next session. [24th July.

HOUSE OF COMMONS

A. PROGRESS OF BILLS

Read First Time:—

Consolidated Fund (Appropriation) Bill [H.C.] [25th July.

Read Third Time:—

Suicide Bill [H.L.] [28th July.

B. QUESTIONS

PLANNING APPEAL, SAFFRON WALDEN

In reply to a question asking on what grounds he concluded, when deciding the planning appeal of Messrs. D. Heath & Son against the Saffron Walden District Council, that there was need for the production of chalk in the area, the MINISTER OF HOUSING AND LOCAL GOVERNMENT said that what he had actually said was that chalk from the appeal site would make a useful contribution to an area which was partly dependent on pits lying at a distance. But his decision had not turned on this: it had turned on whether there would be serious nuisance from chalk dust blowing on to neighbouring land. Once he was satisfied that there would not, there was no reason for withholding planning permission. [25th July.

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(*Continued on p. xiv*)

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(*Continued on p. xv*)

CLEAN AIR ACT, 1956

In reply to a question as to what progress has been made in the five years to 30th June, 1961, in securing implementation of the provisions of the Clean Air Act, 1956, notably in the establishment of Smoke Control Areas in black areas denoted in the Beaver Report, Sir KEITH JOSEPH said that in the black areas of England and Wales, over 623,000 premises and over 102,000 acres were now covered by confirmed smoke control orders. Over 128,000 more premises and over 29,000 more acres in these areas were covered by orders submitted for confirmation. These figures, which were correct to 30th June, indicated a substantial start, but continued vigorous use of all the Act's provisions was needed. [25th July.

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Motor Vehicles (Variation of Speed Limit) Regulations, 1961. (S.I. 1961 No. 1377.) 4d.

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Stopping up of Highways Orders, 1961:—

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County of York, West Riding (No. 18) (S.I. 1961 No. 1344.) 5d.

Superannuation (National Assistance Board) Transfer (Amendment) Rules, 1961. (S.I. 1961 No. 1376.) 5d.

Surcharge on Revenue Duties Order, 1961. (S.I. 1961 No. 1388.) 5d.

Telephone Amendment (No. 2) Regulations, 1961. (S.I. 1961 No. 1369.) 5d.

Tyneside Special Review Area Order, 1961. (S.I. 1961 No. 1359.) 5d.

Wages Regulation (Licensed Non-residential Establishment) Order, 1961. (S.I. 1961 No. 1347.) 11d.

SELECTED APPOINTED DAYS

July	
17th	General Optical Council Disciplinary Committee (Legal Assessor) Rules, 1961. (S.I. 1961 No. 1239.)
21st	Wages Regulation (Sugar Confectionery and Food Preserving) (Amendment) Order, 1961. (S.I. 1961 No. 1272.)
22nd	Industrial and Provident Societies Act, 1961.
28th	Wages Regulation (Cutlery) Order, 1961. (S.I. 1961 No. 1310.)
31st	Civil Aviation (Licensing) Act, 1960, s. 9 (part).
	Wages Regulation (Boot and Shoe Repairing) Order, 1961. (S.I. 1961 No. 1309.)
August	
1st	Betting and Gaming Act, 1960, ss. 13, 14.
	Breathing Apparatus, etc. (Report on Examination) Order, 1961. (S.I. 1961 No. 1345.)
	Land Compensation Act, 1961.
	Motor Vehicles (Construction and Use) (Amendment) Regulations, 1961. (S.I. 1961 No. 1313.)
11th	Building Society (Amendment) Rules, 1960. (S.I. 1960 No. 1237.)

NOTES AND NEWS

Honours and Appointments

Mr. CHARLES CLAYTON CROGGON, solicitor, has been appointed honorary town clerk to Winchelsea (Sussex) Corporation, in succession to the late Captain E. P. Dawes.

Mr. THOMAS KER EDIE has been appointed a metropolitan stipendiary magistrate.

Mr. JOHN FREDERICK HIRST has been appointed an assistant official receiver for the bankruptcy district of the county courts of Nottingham, Boston, Burton-on-Trent, Derby, Leicester, Lincoln and Horncastle.

Mr. DEREK ARTHUR THORNE has been appointed an assistant official receiver for the bankruptcy district of the county courts of Liverpool, Bangor, Birkenhead, Chester, Portmadoc and Blaenau Festiniog, Warrington, Wigan and Wrexham.

Personal Notes

Mr. DENYS BILLINGHURST JOHNSON has retired after nineteen years as clerk to the magistrates at Midhurst, Sussex; this ends a family association of more than 120 years, as his father and grandfather held the post of clerk at Midhurst. Mr. Johnson, who will be succeeded by Mr. W. J. Booker and Mr. J. A. Rose, will continue his solicitor's practice in Midhurst.

CRICKETING SOLICITORS

At the annual cricket match, arranged by Mr. John C. Christie of Central & South Middlesex Law Society, held recently between the Harrow solicitors and the Harrow estate agents at Croxley Green, the solicitors won by fifty-three runs.

POINTS IN PRACTICE

Questions, which can only be accepted from practising solicitors who are subscribers either directly or through a newsagent, should be addressed to the "Points in Practice" Department, The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. They should be brief, typewritten in duplicate, and accompanied by the name and address of the sender on a separate sheet, together with a stamped addressed envelope. Responsibility cannot be accepted for the return of documents submitted, and no undertaking can be given to reply by any particular date or at all

A SELECTION OF POINTS ARISING FROM THE PROVISIONS OF THE BETTING AND GAMING ACT, 1960

Over-the-counter Betting—Legality of—Section 1 (2) of the Betting and Gaming Act, 1960

Bookmaker's Runner—Necessity of Betting Agency Permit

Q. (1) Is all over-the-counter betting (e.g., in a newsagent's stall) illegal unless the premises are licensed under the 1960 Act? (2) (*a*) Where a separate room in a club or public house is set aside for betting purposes exclusively, can the person receiving bets be a runner simply or must he be the holder of an agency permit? (*b*) If he is such a holder, is planning permission required before the separate room can be used for betting purposes?

A. We would answer your points as follows: (1) Such betting is illegal, unless the transactions can be brought within one of the exceptions contained in s. 1 (2) of the Betting and Gaming Act, 1960. (2) Such a "runner" need not be the holder of a betting agency permit if he has been authorised and registered in accordance with s. 3 of the 1960 Act and the room is not a place to which members of the public have access: see *R.* v. *Porter* [1949] 2 K.B. 128.

Bookmaker's Permit—Bookmakers in Partnership—Section 2 (1) of the Betting and Gaming Act, 1960

Q. We act for two brothers who for some years past have been in partnership as bookmakers and intend so to continue. We have advised them that as each can be said to be acting as a bookmaker on his own account in the words of s. 2 (1) of the Act each must obtain a bookmaker's permit and this view is also held by the clerk to the local betting licensing committee. We understand that the opinion has been expressed by another periodical in answer to a subscriber's query that in such a case only one partner need hold a bookmaker's permit, presumably on the understanding that any other partner or partners would be covered by holding a betting agency permit. We should appreciate your opinion on this point, having particular regard to the fact that the difference in the fees payable is, of course, substantial.

A. We are aware of the suggestion that if all the partners of a firm receive or negotiate bets on the partnership premises, only one partner need hold a permit. The crucial question is whether each partner can be said to be acting as "a bookmaker on his own account" within the meaning of s. 2 (1) of the Betting and Gaming Act, 1960. It is true that a person who is the servant or agent of a bookmaker is not acting as "a bookmaker on his own account" (see "Betting and Bookmaking" by J. T. Chenery at p. 190) and that every partner is an agent of the firm and his other partners for the purpose of the business of the partnership (s. 5 of the Partnership Act, 1890), but we prefer your view that each partner must obtain a bookmaker's permit. The Act of 1960 does not contain a provision corresponding to s. 233 (3) of the Customs and Excise Act, 1952.

Bookmaker's Permit—Bookmaking in Another Town
Betting Office Licence—Not Transferable

Q. A client of ours is a bookmaker and has recently applied for and been granted a bookmaker's permit by the licensing committee in this town. He has similarly applied for a betting office licence, which application has not yet been adjudicated upon. Some thirty miles away from here in another town, and in fact in another county, our client's uncle is also a bookmaker and has similarly been granted a bookmaker's permit and has made application for a betting office licence. The uncle is now ill and wishes to hand the business over to our client. Does our client's bookmaker's permit enable him to bookmake at the other town, and can he, when it is granted, take over the betting office licence in the course of taking over his uncle's business? If so, what formalities are necessary? It may be added that to simplify things at the moment the uncle intends to continue with his own application for the betting office licence and then hopes to hand over to our client. We should appreciate your assistance with these problems.

A. It seems to us that your client's bookmaker's permit would enable him to bookmake at the other town. The permit authorises him to "act as a bookmaker on his own account" and no restriction as to the place or area of his activities is imposed. Further, "applications for the grant . . . of bookmakers' permits . . . are made to the clerk to the licensing authority in whose area an applicant has his office, or if he has more than one office, his principal office": "Betting and Bookmaking" by J. T. Chenery at p. 103. On the other hand, we do not think that your client can take over his uncle's betting office licence. Such licences are not transferable ("The New Law of Betting and Gaming" by Eddy and Loewe, p. 54), but it would seem that he may act as his uncle's servant or agent: see s. 3 (1) of the Betting and Gaming Act, 1960.

Fixed Odds Football Pool Betting—Necessity of Betting Office Licence

Q. A client is the registered agent of a bookmaker in Salford. This particular agent is merely concerned with fixed odds football pool betting in the English football season. Each Saturday afternoon from say 12 noon to 2.40 p.m. he rents the front room of a side street house where various agents bring to him coupons and stake money which he puts into his satchel, seals the satchel with a time stamp and then delivers the same to his principal at Salford. The following morning, Sunday, he goes over to Salford to collect the winnings on the various coupons. He hires the same room again from 12 noon to 1 p.m. and pays out the winners. He wishes to know what is his position under the Betting and Gaming Act, 1960, as he does not want to fall foul of the law. I gave it as my view that his principal would have to make application for a betting agency permit after a successful application for a betting office licence for the premises, or for some other premises, even though there was no question of betting on horses or on dogs but merely on football pools. The agent instructed me that his principal did not want to have a permanent betting office open each day and every day in accordance with the Act, but merely required this couple of hours on Saturday and an hour on Sunday, but in my view that does not make any difference. If he wishes to carry on as he has been doing he will still have to have a betting office licence. I would greatly appreciate your views on the matter.

A. It seems to us that the position is as follows: (i) Fixed odds football pool betting transactions constitute "betting transactions" and not "pool betting transactions" within s. 1 (2) of the Betting and Gaming Act, 1960: see s. 4. (1), (2) of the Finance Act, 1952. (ii) The premises are "used" for "betting transactions with persons resorting to those premises" within s. 1 (2) of the Act of 1960 notwithstanding the fact that the premises are so used for short periods in each week. (iii) The principal must hold a bookmaker's permit: s. 3 (1) of the 1960 Act. (iv) The principal must apply for a betting office licence in respect of the premises in question: ss. 1 (2) and 4 (1), (2) of the Act of 1960.

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(*Continued on p. xvi*)

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(*Continued on p. xviii*)

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(*Continued on p. xvii*)

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Sutton.—IDRIS JONES & PARTNERS, F.R.I.C.S., F.A.I., 22 The Arcade, Sutton. VIGilant 0182; and at 30 Abbey House, Westminster.

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Thornton Heath.—DOUGLAS GRAHAM & CO., Estate Agents and Property Managers, 808 London Road. Tel. THO 3888 (4 lines). And at Norbury, Sutton and Piccadilly, W.1.

Virginia Water and Wentworth.—GOSLING AND MILNER, Station Approach, Virginia Water. Tel. Wentworth 2277. And at 8 Lower Grosvenor Place, S.W.1. Tel. Victoria 3634.

Wallington.—WILLIAM A. DAVIS & PARTNERS, 4 Stanley Park Road. Tel. Wallington 2567.

Walton.—MANN & CO., Est. 1891, 38 High Street. Tel. 2331/2. Offices throughout West Surrey.

Walton and Weybridge.—HIGBY & CHARD (Consultants: George Geen, M.A., F.R.I.C.S., V. C. Lawrence, F.R.I.C.S.), 45 High Street, Walton-on-Thames. Tel. 20487/8.

Walton/Weybridge.—WARING & CO., Est. 1890. Surveyors, Estate Agents, Auctioneers and Valuers. Tel. Walton-on-Thames 24151/2.

West Byfleet.—MANN & CO., incorporating Ewbank and Co., Est. 1891. Tel. 3288/9. Offices throughout West Surrey.

Weybridge.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 2323/5. Offices throughout West Surrey.

Weybridge and District.—J. E. PURDIE & SON, Chartered Surveyors and Estate Agents, 1 and 3 Queens Road, Weybridge. Tel. 3307 (3 lines), and at Walton-on-Thames.

Weybridge and District.—WATERER & SONS, Chartered Auctioneers and Estate Agents, Surveyors, etc. Tel. 3838/9.

Woking.—HOAR & SANDERSON, 5 Church Path. Tel. 3263/4. Eleven associated Surrey offices.

(*Continued on p. xviii*)

SURREY (*continued*)

Woking.—MANN & CO., Est. 1891, Chartered Surveyor. Tel. 3800 (6 lines). Offices throughout West Surrey.

Woking.—MOLDRAM, CLARKE & EDGLEY, Chartered Surveyors. Tel. 3419; and at Guildford.

SUSSEX

Angmering-on-Sea, Rustington, Worthing and Storrington.—BERNARD TUCKER & SON. Est. 1890. L. B. Tucker, F.R.I.C.S., F.A.I., G. H. E. Evans, F.A.L.P.A., W. J. Brown, F.A.I. Tels. Rustington 1, Worthing 5708/9, Storrington 2535.

Arundel and Rustington.—HEASMAN & PARTNERS. Tel. Arundel 2323, Rustington 900.

Bexhill-on-Sea.—JOHN BRAY & SONS (Est. 1864), Estate Agents, Auctioneers and Valuers, 1 Devonshire Square. Tel. 14.

Bexhill-on-Sea and Little Common.—RICHES & GRAY (Est. 1863), Chartered Auctioneers and Estate Agents, 25 Sea Road, Bexhill-on-Sea. Tel. 34/5. And at 25 Cooden Sea Road, Little Common. Tel. Cooden 2939.

Brighton.—RAYMOND BEAUMONT, F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 35 East Street. Tel. Brighton 20163.

Brighton.—MELLOR & MELLOR, Chartered Auctioneers and Estate Agents, 110 St. James's Street. Tel. 682910.

Brighton and Worthing.—H. D. S. STILES & CO., F.R.I.C.S., F.A.I. (special rating diploma), 6 Pavilion Buildings. Tel. Brighton 23244 (4 lines). 10 King's Bench Walk, Temple, E.C.4. Tel. Central 5356. 3 The Steyne, Worthing. Tel. Worthing 9192/3.

Brighton.—FRANK STONE & PARTNERS, F.A.L.P.A., 84 Queen's Road. Tel. Brighton 29252/3.

Brighton and Hove.—WILLIAM WILLETT, LTD., Auctioneers and Estate Agents, 52 Church Road, Hove. Tel. Hove 34055. London Office, Sloane Square, S.W.1. Tel. Sloane 8141.

Brighton, Hove and Surrounding Districts.—MAURICE P. HATCHWELL, F.R.I.C.S., F.A.I., Chartered Surveyor, Chartered Auctioneer and Estate Agents, 4 Bartholomews, Brighton, 1. Tel. Brighton 23107.

Brighton, Hove and Surrounding Districts.—C. HORTON LEDGER, F.A.I., Established 1885 Chartered Auctioneer and Estate Agent, Surveyor and Valuer, "Sussex House," 126/7 Western Road, Hove, Tel. Sussex 1291.

Chichester and Bognor Regis.—WHITEHEAD & WHITEHEAD, Chartered Auctioneers and Estate Agents, South Street, Chichester. Tel. 3031 (5 lines). Station Road, Bognor Regis. Tel. 2237/8.

Crawley.—WM. WOOD, SON & GARDNER, Estate Agents, Surveyors and Valuers. Tel. Crawley 1.

Crowborough.—DONALD BEALE & CO., Auctioneers, Surveyors and Valuers. The Broadway. Tel. Crowborough 3333.

Eastbourne.—FRANK H. BUDD, LTD., Auctioneers, Surveyors, Valuers, 1 Bolton Road. Tel. 1860.

Eastbourne.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 12 Gildredge Road. Tel. Eastbourne, 1285.

Eastbourne.—HEFFORD & HOLMES, F.A.I., Chartered Auctioneers and Estate Agents, 51 Gildredge Road. Tel. Eastbourne 7840.

Eastbourne.—OAKDEN & CO., Estate Agents, Auctioneers and Valuers, 24 Cornfield Road. Est. 1897. Tel. 1234/5.

Eastbourne and District.—FARNHAM & CO., Auctioneers, Estate Agents and Valuers, 6 & 44 Terminus Road, Eastbourne. Tel. 4433/4/5. Branch at 73 Eastbourne Road, Lower Willingdon, and 4 Grand Parade, Polegate.

East Grinstead.—Messrs. P. J. MAY (P. J. May and A. L. Apthorp, F.R.I.C.S., F.A.I., M.R.San.I.), 2 London Road. Tel. East Grinstead 315/6.

East Grinstead.—TURNER, RUDGE & TURNER, Chartered Surveyors. Tel. East Grinstead 700/1.

Hassocks and Mid-Sussex.—AYLING & STRUDWICK, Chartered Surveyors. Tel. Hassocks 882/3.

Hastings, St. Leonards and East Sussex.—DYER & OVERTON (H. B. Dyer, D.S.O., F.R.I.C.S., F.A.I.; F. R. Hynard, F.R.I.C.S.), Consultant Chartered Surveyors, Estd. 1892. 6-7 Havelock Road, Hastings. Tel. 5661 (3 lines).

Hastings, St. Leonards and East Sussex.—WEST (Godrey, F.R.I.C.S., F.A.I.) & HICKMAN, Surveyors and Valuers, 50 Havelock Road, Hastings. Tel. 6688/9.

Haywards Heath and District.—DAY & SONS, Auctioneers and Surveyors, 115 South Road. Tel. 1580. And at Brighton and Hove.

Haywards Heath and Mid-Sussex.—BRADLEY AND VAUGHAN, Chartered Auctioneers and Estate Agents. Tel. 91.

Horsham.—KING & CHASEMORE, Chartered Surveyors, Auctioneers, Valuers, Land and Estate Agents. Tel. Horsham 3355 (3 lines).

Horsham.—WELLER & CO., Surveyors, Auctioneers, Valuers, Estate Agents. Tel. Horsham 3311. And at Guildford, Cranleigh and Henfield.

Hove.—DAVID E. DOWLING, F.A.L.P.A., Auctioneer, Surveyor, Valuer & Estate Agent, 75 Church Road, Hove. Tel. Hove 37213 (3 lines).

Hove.—PARSONS, SON & BASLEY (W. R. De Silva, F.R.I.C.S., F.A.I.), 173 Church Road, Hove. Tel. 34564.

REGISTER OF
Auctioneers, Valuers, Surveyors, Land and Estate Agents

SUSSEX (*continued*)

Hove and District.—WHITLOCK & HEAPS, Incorporated Auctioneers, Estate Agents, Surveyors and Valuers, 65 Sackville Road. Tel. Hove 31822.

Hove, Portslade, Southwick.—DEACON & CO., 11 Station Road, Portslade. Tel. Hove 48440.

Lancing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Lewes and Mid-Sussex.—CLIFFORD DANN, B.Sc., F.R.I.C.S., F.A.I., Fitzroy House, Lewes. Tel. 4375. And at Ditchling, Hurstpierpoint and Uckfield.

Seaford.—W. G. F. SWAYNE, F.A.I., Chartered Auctioneer and Estate Agent, Surveyor and Valuer, 3 Clinton Place. Tel. 2144.

Storrington, Pulborough and Billinghurst.—WHITEHEAD & WHITEHEAD amal. with D. Ross & Son, The Square, Storrington (Tel. 40), Swan Corner, Pulborough (Tel. 232/3), High Street, Billinghurst (Tel. 391).

Sussex and Adjoining Counties.—JARVIS & CO., Haywards Heath. Tel. 700 (3 lines).

West Worthing and Goring-by-Sea.—GLOVER & CARTER, F.A.L.P.A., 110 George V Avenue, West Worthing. Tel. 8686/7. And at 6 Montague Place, Worthing. Tel. 6264/5.

Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.

Worthing.—STREET & MAURICE, formerly EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.

Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.

Worthing.—PATCHING & CO., Est. over a century. Tel. 5000. 5 Chapel Road.

Worthing.—JOHN D. SYMONDS & CO., Chartered Surveyors, Revenue Buildings, Chapel Road. Tel. Worthing 623/4.

WARWICKSHIRE

Birmingham and District.—SHAW, GILBERT & CO., F.A.I., "Newton Chambers," 43 Cannon Street, Birmingham, 2. Midland 4784 (4 lines).

Coventry.—GEORGE LOVEITT & SONS (Est. 1843), Auctioneers, Valuers and Estate Agents, 29 Warwick Row. Tel. 3081/2/3/4.

WARWICKSHIRE (*continued*)

Coventry.—CHAS. B. ODELL & CO. (Est. 1901), Auctioneers, Surveyors, Valuers and Estate Agents, 53 Hertford Street. Tel. 22037 (4 lines).

Leamington Spa and District.—TRUSLOVE & HARRIS, Auctioneers, Valuers, Surveyors. Head Office: 38/40 Warwick Street, Leamington Spa. Tel. 1861 (2 lines).

Sutton Coldfield.—QUANTRILL SMITH & CO., 4 and 6 High Street. Tel. SUT 4481 (5 lines).

WESTMORLAND

Kendal.—MICHAEL C. L. HODGSON, Auctioneers and Valuers, 10a Highgate. Tel. 1375.

Windermere.—PROCTER & BIRKBECK (Est. 1841), Auctioneers, Lake Road. Tel. 688.

WILTSHIRE

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.

Marlborough Area (Wilts, Berks and Hants Borders).—JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2, And at Ashby-de-la-Zouch, Burton-on-Trent and Derby.

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.

Kidderminster, Droitwich, Worcester.—G. HERBERT BANKS, 28 Worcester Street, Kidderminster. Tels. 2911/2 and 4210. The Estate Office, Droitwich. Tels. 2084/5. 3 Shaw Street, Worcester. Tels. 27785/6.

Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

YORKSHIRE

Bradford.—NORMAN R. GEE & HEATON, 72/74 Market Street, Chartered Auctioneers and Estate Agents. Tel. 27202 (2 lines). And at Keighley.

YORKSHIRE (*continued*)

Bradford.—DAVID WATERHOUSE & NEPHEWS, F.A.I. Britannia House, Chartered Auctioneers and Estate Agents. Est. 1844. Tel. 22622 (3 lines).

Hull.—EXLEY & SON, F.A.L.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 3399/2.

Leeds.—SPENCER, SON & GILPIN, Chartered Surveyors, 132 Albion Street, Leeds, 1. Tel. 30171.

Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.

Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street, Tel. 30429.

Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.

Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.

Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.

Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.

Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO., (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.

Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.

★ Classified Advertisements ★

PUBLIC NOTICES—INFORMATION REQUIRED—CHANGE OF NAME
4s. per line as printed

APPOINTMENTS VACANT—APPOINTMENTS WANTED—PRACTICES AND PARTNERSHIPS and all other headings
15s. for 30 words. Additional lines 4s. Box Registration Fee 2s. extra

Advertisements should be received by first post Wednesday for inclusion in the issue of the same week and should be addressed to THE ADVERTISEMENT MANAGER, SOLICITORS' JOURNAL, OYEZ HOUSE, BREAMS BUILDINGS, FETTER LANE, E.C.4. CHAncery 6855

PUBLIC NOTICES

WYCOMBE RURAL DISTRICT COUNCIL

LEGAL ASSISTANT

Applications are invited for the appointment of Legal Assistant in the Clerk and Solicitor's Department of the Council at a salary in accordance with Grade A.P.T. II, £815–£960. N.J.C. Conditions of Service will apply. Five-day week.

The duties of the post are similar to those of a Solicitor's Managing Clerk and applicants must have had experience in a legal office, including conveyancing and mortgages, and must be capable of acting under nominal supervision. The appointment also offers an excellent opportunity for an applicant with initiative to gain experience in other branches of the Clerk's Department.

The Council will assist in providing housing accommodation if required.

Applications, stating age, qualifications, experience and the names of two referees, should be sent to reach the undersigned not later than 18th August, 1961.

L. C. RYSDALE,
Clerk of the Council.

17 High Street,
High Wycombe.

BOROUGH OF PUDSEY

LEGAL ASSISTANT

Applications are invited from duly admitted Solicitors for the appointment of Legal Assistant in the Town Clerk's Department, at a salary within A.P.T. Grade V (£1,310 to £1,480 per annum). Permanent post, and superannuation.

Previous experience with a Local Authority would be of advantage, and a good knowledge of conveyancing is important. Work will include some advocacy and opportunity of taking Committees. Excellent prospects for the right applicant.

Housing assistance, if necessary.

Applications should be forwarded to the undersigned not later than Saturday, the 12th August, 1961, together with the names of two referees.

W. RICHARD CRUSE,
Town Clerk.

Town Hall,
Pudsey, Yorkshire.

TRENT RIVER BOARD

APPOINTMENT OF JUNIOR LEGAL ASSISTANT (Unadmitted)

Applications are invited for the above appointment at a salary range within A.P.T. Grades III–IV (£960–£1,310 per annum). Commencing salary according to qualifications and experience. N.J.C. Conditions.

Local Government experience is not essential but applicants must be able to carry through conveyancing and allied transactions with minimum supervision and should have experience in general legal work.

Particulars of duties, conditions and method of application obtainable from the Clerk of the Board, 206 Derby Road, Nottingham. Closing date for applications 31st August, 1961.

COUNTY COUNCIL OF THE WEST RIDING OF YORKSHIRE

APPOINTMENT OF ASSISTANT SOLICITOR

A young Solicitor is required in my office to assist generally, including work in connection with the conduct of Quarter Sessions. Adaptability and keenness are more important than experience since admission, previous Local Government service not being essential.

The salary payable will be between £1,300 and £1,550 per annum. The commencing salary and increments within that range will be on merit. There will also be opportunity for the successful applicant thereafter to proceed by annual increments to £2,345 per annum.

Applications giving full details and with names of two persons to whom reference can be made should be received by me not later than the 31st August.

BERNARD KENYON,
Clerk of the Peace and County Council.

County Hall,
Wakefield.
August, 1961.

CITY OF CARDIFF

APPOINTMENT OF ASSISTANT PROSECUTING SOLICITOR

Applications are invited for this post in A.P.T. Grades III-IV, £960-£1,310, commencing salary according to experience. Apply at once to the undersigned, giving details of qualifications, experience and two referees.

S. TAPPER-JONES,
Town Clerk.

City Hall,
Cardiff.

BOROUGH OF WEDNESBURY

DEPUTY TOWN CLERK

Applications are invited from Solicitors for this Appointment on a salary scale £1,443 £50—£1,643, plus car allowance if appropriate.

Applicants should be competent conveyancers and have experience in advocacy. Experience in public administration would be desirable but is not a condition of appointment.

The Council operates a five-day working week.

Applications giving full particulars of education, professional training and experience with names and addresses of two referees to reach me by 19th August, 1961.

G. F. THOMPSON,
Town Clerk.

Town Clerk's Office,
Town Hall,
Wednesbury.

NEW SCOTLAND YARD

PROSECUTING SOLICITORS on permanent staff of Solicitor's Department. Age 24–40. Starting salary £1,150 at age 24 to £1,703 at age 35 (or over). Scale maximum £1,937. Non-contributory pension. Good prospects of promotion. No previous experience required of criminal prosecutions. Particulars from Secretary, Room 165 (LA), New Scotland Yard, S.W.1.

COUNTY BOROUGH OF READING

ASSISTANT SOLICITOR

Applications invited for above post in Grades A.P.T. III/IV (£960–£1,310), commencing salary according to qualifications and experience. Previous local government experience not essential. Applications, giving details of age, education, previous appointments and names of two persons to whom reference may be made to be received by me by 19th August, 1961.

G. F. DARLOW,
Town Clerk.

Town Hall,
Reading.
4th August, 1961.

HAYES AND HARLINGTON URBAN DISTRICT COUNCIL

(Population 69,400)

LAW CLERK

Vacancy in a busy office for a person of wide experience capable of undertaking conveyancing work with minimum of supervision. Salary within £1,005–£1,185. Five-day week. Full particulars from Clerk and Solicitor, Town Hall, Hayes, Middlesex. Closing date 21st August, 1961.

BOROUGH OF ILFORD

LEGAL ASSISTANT
A.P.T. III (£1,005—£1,185)

Applicants must be experienced in conveyancing work. Local Government experience not essential. Commencing salary will be determined according to qualifications and experience. Housing accommodation available if required. Five-day week.

The appointment is permanent and subject to the Superannuation Acts, the National Scheme of Conditions of Service and to the passing of a medical examination.

Application form obtainable from Town Clerk, P.O. Box No. 2, Town Hall, Ilford, Essex. Closing date, 24th August, 1961.

COUNTY BOROUGH OF NEWPORT

ASSISTANT SOLICITOR

Salary in range £1,140–£1,310 per annum. Commencing point in accordance with ability and experience. N.J.C. Conditions of Service. Post permanent and superannuable; scope for wide experience. Approved furniture removal expenses paid. Five-day week.

Applications, with names of two referees, to reach the Town Clerk, Civic Centre, Newport, Mon., by first post on 16th August, 1961.

SOUTH-WESTERN GAS BOARD

ASSISTANT SOLICITOR

Applications are invited for the above pensionable appointment, at a salary commencing at £1,365 and rising to £1,525.

Particulars should be sent to the undersigned before 21st August, including the names of two referees.

R. GEOFFREY LAYCOCK,
Solicitor.

9A Quiet Street,
Bath.

continued on p. xx

★ Classified Advertisements ★

continued from p. xix

PUBLIC NOTICES—*continued*

STEPNEY

METROPOLITAN BOROUGH COUNCIL

require ASSISTANT SOLICITOR. Salary £1,355–£1,525, commencing according to experience. Good experience in conveyancing required. Form of application and other particulars from Town Clerk, 227 Commercial Road, E.1. Closing date 31st August, 1961.

APPOINTMENTS VACANT

SOUTHAMPTON WATER AND NEW FOREST.—Expanding branch office of old-established firm require :—

(1) Assistant solicitor to undertake mainly conveyancing matters although, if desired, experience in other branches available, and
(2) Conveyancing clerk.

Housing assistance, if required. Pension and life assurance scheme. Alternate Saturdays. —Moore & Blatch, Marsh House, Hythe, Southampton.

SOLICITORS in South Devon seaside resort require competent Assistant Solicitor able to undertake all forms of Common Law matters including advocacy. This vacancy presents an opportunity for young admitted man with ability to join progressive Firm with modern office and happy staff. Partnership prospects after suitable probationary period. Salary commensurate with age and previous experience. Assistance with housing if required. Man awaiting Final Examination results would be considered.—Box 7944, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LEADING INSURANCE GROUP has a vacancy in London for a young man with experience in a Solicitor's Office of Probate, Conveyancing and Trust work to deal with contingencies arising out of the titles to land, trusts, etc., and Administration and Court Bond work. Age up to say 30. Good prospects with attractive staff conditions including non-contributory Pension Scheme and other valuable Staff Schemes.—Write giving experience and personal details to Box 7946, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PERSONABLE and energetic Solicitor required to take control of an old-established and active office in a pleasant town in West Hertfordshire about 30 miles from London. Applicant should be at least 28 years of age and would commence at a salary of £1,500 per annum or according to experience. Good prospects of partnership. —Box 7943, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SALARIED Partnership available within a reasonable time, to a really able young Solicitor aged 25 to 32 years, in Wiltshire town. Excellent opportunities for man of ability and personality. Assistance given with Housing and School expenses.—Box 7945, Solicitors' Journal, Oyez House, Breams Building, Fetter Lane, E.C.4.

SOLICITOR required, Walham Green, S.W.6. Mainly Conveyancing and Probate. Partnership prospects. Write details experience and salary required.—Box 7947, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WEST SUSSEX.—Assistant Solicitor required to take charge of Litigation Department. Possibility of partnership later. Salary according to experience but not less than £1,250.—Box 7897, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED Conveyancer wanted. £1,200 p.a. Holiday arrangements honoured.—Box 7916, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LEGAL Department of large public property company requires Conveyancing Managing Clerk. Salary by arrangement but not less than £1,000 per year.—Box 7936, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITORS in Mayfair require well-experienced solicitor or managing clerk to take charge of conveyancing; some litigation.—Box 7940, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR required for busy provincial practice in county town with opportunity for advocacy as well as general practice; prospects of partnership; salary by arrangement.—Box 7938, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR assistant required by Sussex coast solicitors; some advocacy; £1,500 per annum for right man.—Box 7939, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CITY firm with expanding trust and probate department seek an assistant solicitor, aged 30–35, or a senior unadmitted man, with an exceptional experience in this sphere, including estate planning and taxation and capable of supervising a number of senior managing clerks; salary will be fully in accordance with ability with first-class prospects.—Write with full details of experience to Box 7941, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

BRISTOL solicitors require experienced conveyancing managing clerk used to undertaking substantial transactions; salary by arrangement according to experience; pension scheme available.—Box 7942, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LEADING FIRM OF CITY SOLICITORS seek conveyancing manager; experience in estate and property development an advantage; first-class opening in every respect.—Write to Box No. 4222, c/o Charles Barker & Sons Limited, 20 Cannon Street, London, E.C.4.

MIDLAND Employers' Mutual Assurance Ltd. have vacancy at their London head office for claims inspector preferably in the age group 28 to 35 years, with experience in employers' liability, public liability, motor and general accident claims. Good commencing salary, excellent prospects, non-contributory life and pension scheme, luncheon allowance, full out-of-pocket expenses and generous holidays. Applications giving experience and salary required will be treated in confidence, should be marked personal and addressed to—London Claims Manager, 52 Leadenhall Street, E.C.3.

WIGAN.—Old-established Solicitors require Assistant, admitted or unadmitted—good knowledge and experience Conveyancing, Probate and General Practice. Work with or without supervision. Write stating age and experience.—Box 7927, Solicitors' Journal Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor required by Bedford Row firm with experience in Conveyancing. Knowledge of commercial law an advantage. Prospects of partnership. Salary £1,250 and upwards, according to experience, but newly admitted solicitor would be considered.—Box 7953, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SENIOR CONVEYANCER (admitted or unadmitted) capable of working with little or no supervision and preferably experienced in estate development required by old established firm in South of England. Substantial and progressive salary, excellent working conditions; pension and life assurance schemes, existing holiday arrangements honoured. Assistance with housing and removal expenses if necessary.—Particulars please to Box 7834, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

continued on p. xxi

THE HALIFAX BUILDING SOCIETY

APPOINTMENT OF

ASSISTANT SOLICITOR

The Halifax Building Society wishes to appoint an additional Solicitor at its Head Office in Halifax to assist the present Head Office Solicitor until his retirement in 1964 and with the expectation of then succeeding him.

Candidates should be admitted solicitors within the approximate age range 35–42 years. Possession of a university degree will be an advantage as also will administrative experience and evidence of organising ability. A wide knowledge of conveyancing and of the law of mortgages is a major requirement.

The Head Office Solicitor advises the Directors and Chief General Manager on all legal matters affecting the Society's business and controls a securities department of about 45 persons.

The salary will be commensurate with experience and qualifications. The appointment includes membership of contributory Staff Superannuation and Widows' Pensions Funds.

Applications, which will be treated in strictest confidence, should be sent to The Chief General Manager, Halifax Building Society, Permanent Buildings, Halifax, Yorkshire, and should be clearly marked AJT/Private.

Classified Advertisements

continued from p. xx

APPOINTMENTS VACANT—*continued*

SENIOR unadmitted Conveyancing Managing Clerk required for important permanent position in Central London practice. Substantial salary. Excellent working conditions and prospects.—Box 7952, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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continued on p. xxii

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continued from p. xxi

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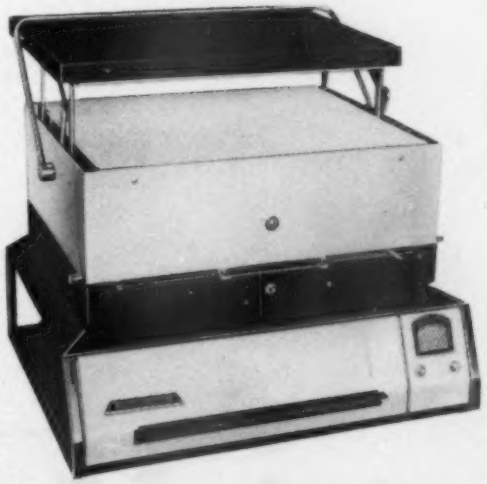

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